

HCP(MD)No.785 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

HABEAS CORPUS PETITION(MD)No.785 of 2025

Dr.AmalaJoshla

... Petitioner

vs.

**1. The Superintendent of Police
Kanyakumari District**

**2.The Inspector of Police
All Women Police Station
Kanyakumari.
Kanyakumari District.**

3Dr.Diego Edwin

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the second respondent to produce the person or body of the detenue namely Minor. Jaden Chris, son of Deigo Edwin aged 5 ½ years before this Court and hand over the detenue custody to the petitioner.



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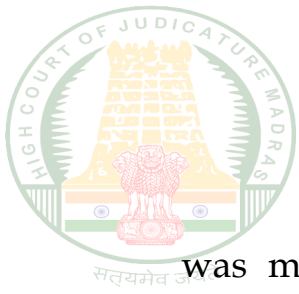
For Petitioner : Mr.P.T.Ramesh Raja
For Respondents: Mr.B.Nambi Selvan
No.1 and 2 Additional Public Prosecutor
For R-3 : Mr.P.Ganapathi Subramanian

ORDER

[Order of the Court was made by **A.D.JAGADISH CHANDIRA, J.**]

This Habeus Corpus Petition has been filed to direct the second respondent to produce the person or body of the detenue namely Minor. Jaden Chris, son of Deigo Edwin aged 5 ½ years before this Court and hand over the detenue custody to the petitioner.

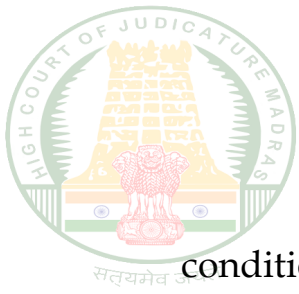
2. The case of the petitioner is that the petitioner and the third respondent are doctors by profession. The petitioner got married to the third respondent on 25.01.2019 and she was working in a reputed hospital in Trichy. Out of the wedlock the petitioner and the third respondent were blessed with two children, one male child aged about five years and a female child about 7 months. The petitioner further averred that due to illicit affair of the third respondent there



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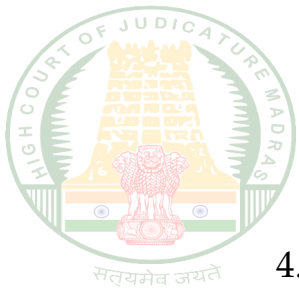
was matrimonial discord and while so, the third respondent had earlier illegally taken custody of the first child and moved out of the matrimonial home and he had concealed his whereabouts. The petitioner had earlier to know the whereabouts of the third respondent and her son had filed a Habeas Corpus Petition before this Court in HCP(MD) No.1296 of 2024 and the earlier petition was disposed of based on the undertaking given by the petitioner and her husband/third respondent and the mother of the petitioner. Subsequently the petitioner and the third respondent were living at Trichy and the third respondent continued his extra marital relationship and when the same was questioned by the petitioner the third respondent abused, assaulted and driven the petitioner out of the matrimonial home and forcibly taken custody of his first son and left the home and the petitioner was also forced to leave the matrimonial home and thereby she went to her parental home at Kanyakumari along with the new born second child. The petitioner had repeatedly requested the third respondent to hand over custody of her son. However he had refused to hand over custody imposing



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condition that if she agrees for divorce he would give the custody of the child and the third respondent also not allowed the petitioner to speak with her first son. In order to find out the whereabouts of her son she had lodged a complaint before the All Women Police Station, Kanyakumari District on 26.05.2025. The respondents have not taken any action to secure the child and thereby the petitioner had approached this Court by way of filing this petition.

3. When the matter is taken up for hearing today in the morning the learned Additional Public Prosecutor submitted that based on the complaint given by the petitioner enquiry was conducted in CSR No. 244 of 2024 by the All Women Police Station and finding that it is a matrimonial dispute the parties were directed to approach the appropriate forum and the enquiry was closed. However he would submit that intimation has been given to both the parties and they were present before this Court. *Prima facie* finding that matter arises out of matrimonial dispute, we took up the case for hearing in the Chambers.



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4. We enquired the petitioner, her husband/third respondent and also interacted with the child/son of the third respondent aged about five years. He was able to answer our questions properly. He submitted that his father is at Trichy and he informs his desire that he would be happy if both the parents are with him and he is also happy with his mother as well as his father.

5. We thereafter discussed with the petitioner and the third respondent. Each of them expressed their apprehension about the conduct of the other and they are not able to arrive at consensus in their matrimonial affair and allegations and counter allegations are made as against each other the third respondent refuted the allegations made against him.

6. We find that the custody of the minor is not illegal, however having interacted with the child and taking into consideration the interest and welfare of the child the following interim arrangement is made as per the agreement between the petitioner/wife and the third



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respondent/husband

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a) The minor son who is admitted in Montford School, Trichy shall be with the father during the school working days

b) The petitioner/wife is entitled to have custody of the minor son during the first weekend of every month.

c) The third respondent shall either drop the minor son in person or he shall send the minor son through a responsible person to the residence of the petitioner on the first Saturday morning and the petitioner shall ensure that the minor son is dropped back in school on Monday morning.

d) During long vacations the mother shall be entitled to have custody of her son and she shall drop him in the school on the reopening day.



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e) In the event of any violation of any condition by either of the parties they are at liberty to approach this Court.

6. With the above interim arrangement, the Habeus Corpus Petition stands disposed of. We make it clear that this order is passed only as an interim measure taking into consideration the interest and welfare of the minor child. The parties are at liberty to approach the appropriate forum seeking for custody of the child and the concerned Court shall not be influenced by any of the observation made in this petition.

[A.D.J.C., J.] [R.P., J.]
08.07.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:

1. The Superintendent of Police
Kanyakumari District

2.The Inspector of Police
All Women Police Station
Kanyakumari.
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

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ORDER MADE IN
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