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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2025

CORAM:

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

HABEAS CORPUS PETITION(MD)No.806 of 2025

P.Mythili ... Petitioner

vs.

1. The Superintendent of Police
Thanjavur District

2. The Deputy Superintendent of Police
Office of the Deputy Superintendent of Polic
Thiruvidaimaruthur,
Thanjavur District

3. The Inspector of Police
Thiruvidaimaruthur Police Station,
Thiruvidaimaruthur,
Thanjavur District

4.Prasanna ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 to 3 to produce the body or person of the petitioner's female child the detenue namely Minor. Dhanasree, D/o.Prasanna aged about three years under the illegal custody of the fourth respondent before this Court and hand over the custody to the petitioner.

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For Petitioner : Mr.S.Sankar
For Respondents No.1 to 3 : Mr.B.Nambi Selvan Additional Public Prosecutor
For R4 : Mr.S.Gurumoorthy

O R D E R

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

This Habeus Corpus Petition has been filed to direct the respondents 1 to 3 to produce the body or person of the petitioner's female child the detenue namely Minor. Dhanasree, D/o.Prasanna aged about three years under the illegal custody of the fourth respondent before this Court and hand over the custody to the petitioner.

2. It is the case of the petitioner that she got married to the fourth respondent four years ago and out of the wedlock she had begotten a female child namely Dhanasree aged about three years There used to frequent quarrel between the petitioner and the fourth respondent and that she was driven out of the matrimonial home and she is living separately with her parents for the past four months along with the child. While so, on 22.06.2025 at about 11.00 a.m., the fourth respondent along with his sister

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Rajalakshmi had gone to the house of the petitioner's parents and picked up quarrel with her and had forcibly taken the child from her custody. The petitioner had given a detailed complaint before the All Women Police Station, Aaduthurai whereas they had without conducting enquiry instructed the petitioner to give a complaint before the third respondent police station. When she had gone to the third respondent after getting instructions they issued CSR No.494 of 2025 dated 24.06.2025. Since the respondents did not take any action to secure the minor daughter aged about three years which was forcibly taken from her custody, the petitioner has filed the present petition.

3. When the matter is taken up for hearing on 14.07.2025, this Court passed the following order:

> *"2. The whereabouts of the minor child aged about three years is known to the respondent police. Since the mother is the natural guardian and entitled for custody of the minor child aged about three years under Section 6(a) of the Hindu Minority and Guardianship Act,the respondent police are directed to produce the child along with the fourth respondent on 16.07.2025.*

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3. The petitioner may also be present before this Court on 18.07.2025

4. Post the matter on 16.07.2025."

4. When the matter is listed on 16.07.2025, the fourth respondent appeared before this Court along with the child. Finding that the matter arises out of matrimonial dispute the spouses are directed to be appear before the mediation centre attached to his Bench. Meanwhile taking into consideration the situation, we directed the interim custody of the child with the fourth respondent till 17.07.2025 and the fourth respondent was directed to hand over custody of the child on 18.07.2025 and the parties were directed to appear before the mediation centres again on 22.07.2025 along with minor child and the matter was listed on 22.07.2025.

5. The learned counsel appearing for the fourth respondent submitted that there is a matrimonial dispute between the petitioner and the fourth respondent and the fourth respondent being a natural guardian is entitled to the custody of the child and he also submitted that finding that the child was not maintained properly the fourth respondent had filed G.W.O.P petition before the Principal District and Sessions Court, Nagapattinam and

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it is yet to be numbered.

6. Per contra the learned counsel appearing for the petitioner would submit that the child was with the custody of the petitioner/mother and that the fourth respondent had by force after attacking the petitioner had taken the child on 22.06.2025.

7. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the fourth respondent.

7. The minor child is aged about three years and was under the custody of the mother a till 23.06. 2025 and the child was taken by force by the fourth respondent after assaulting her. The petitioner had approached the police and they have not taken steps to restore the custody to her and thereby she had approached this Court.

8. The child is aged about three years and till 22.06.2025 and the custody of the child was with the petitioner/mother. Since that the child has been taken custody from the mother we restore the custody to the mother. However as a temporary arrangement we direct the fourth

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respondent be permitted to visit the child during the first and third week of every Saturday between 10.00 am., and 5.00 pm.,

9. 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.]
22.07.2025

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

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Thanjavur District

2. The Deputy Superintendent of Police
Office of the Deputy Superintendent of Polic
Thiruvidaimaruthur,
Thanjavur District

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3. The Inspector of Police
Thiruvidaimaruthur Police Station,
Thiruvidaimaruthur,
Thanjavur District

4.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
HCP(MD)No.806 of 2025

DATED : 22.07.2025

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