



HCP(MD)No.942 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2025

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CORAM:

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

HABEAS CORPUS PETITION(MD)No.942 of 2025

Tmt.Vaitheeswari

... Petitioner

vs.

1. The State of Tamil Nadu, rep by
The Superintendent of Police,
Madurai District, Madurai.

2. The State of Tamil Nadu, rep by
The Inspector of Police,
AWPS Oomatchikulam Police Station,
Madurai District.

3. Tmt.Chandra

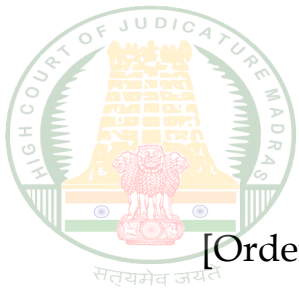
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents 1 and 2 to produce the body or person of the petitioner's minor son namely, P.Jaswick Maran S/o. Pasapriyan about 4 years before this Court and hand over the custody to the petitioner.

For Petitioner : Mr.A.Mathan

For Respondents: Mr.B.Nambi Selvan

Additional Public Prosecutor



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ORDER

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

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This Habeas Corpus Petition is filed to direct the respondents 1 and 2 to produce the body or person of the petitioner's minor son namely, P.Jaswick Maran S/o. Pasapriyan aged about 4 years before this Court and hand over the custody to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner was in love with one Pasapriyan and subsequently on 10.03.2020, she got married to him and due to marital wedlock, the petitioner begotten a male child namely, P.Jaswick Maran on 05.08.2021. The petitioner had admitted the child in the Primary Health School, Chathirapatti, Madurai District. After the marriage, the petitioner and her husband were living in a separate house in Nellaiyappapuram 4th Street, Thirunagar, Madurai. While so, on 28.05.2023, the petitioner's husband had met with an accident on 28.05.2023 and he was admitted in Government Rajaji Hospital, Madurai, and he died without responding to treatment on 01.06.2023. Thereafter, the petitioner was living in her mother's house along with the child. The petitioner had also filed MCOP.No.415 of 2024 claiming compensation for the death of her



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husband Pasapriyan and the Court had awarded a total sum of Rs.31 Lakhs to the petitioner, out of which, Rs.8 Lakhs was apportioned to the petitioner, Rs.15 Lakhs was apportioned to the minor boy and Rs.4 Lakhs each were apportioned to the parents of Pasapriyan. After the death of the husband Pasapriyan, the petitioner married to one Suriya who is her relative and was living along with the said Suriya and the minor child. While so, on 20.07.2025, the 3rd respondent has come to the house of the petitioner and requested the petitioner to send the minor child along with her. On the assurance that the 3rd respondent will hand over the minor child to the petitioner on 21.07.2025 for sending him to school, the petitioner had handed over the child to the 3rd respondent on 20.07.2025, whereas, she had not returned the child to the petitioner and when the petitioner had asked for return of the child, the 3rd respondent had threatened the petitioner of giving false complaint under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Since the 3rd respondent did not return the child, the petitioner had given a complaint before the 2nd respondent on 26.07.2025. Despite registration of CSR, the respondents have not taken any action to secure the child and thereby, the present Habeas Corpus Petition has been filed.

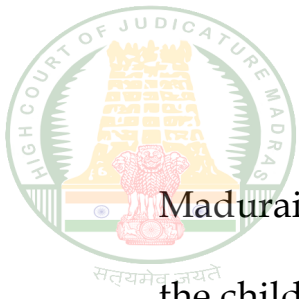


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3. The learned counsel for the petitioner would submit that the petitioner was having custody of the child all along and believing the assurance of the 3rd respondent, she had sent her son with her. However, the 3rd respondent had not returned the child. He further submitted that right from the death of her husband, the petitioner was having custody of the child. He would also submit that the child is only 4 years old and that the petitioner being the natural guardian, she is entitled to have custody of the child.

4. The learned Additional Public Prosecutor would submit that based on the complaint given by the petitioner, an enquiry was conducted in CSR.No.410/2025. However, he would submit that till 20.07.2025, the child was with the petitioner/mother and she had handed over the child to the 3rd respondent, on the assurance given by the 3rd respondent that she will return the child after completing the death related ceremonies, but the 3rd respondent had not returned the child to the petitioner.

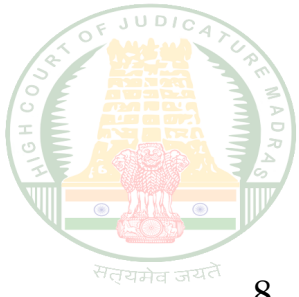
5. The learned counsel for the 3rd respondent would submit that the 3rd respondent has filed a petition before the Family Court,



Madurai, seeking for custody of the minor child. He would submit that the child was with the mother for one week and with the 3rd respondent for another week and since the child was subjected to harassment by the petitioner, the 3rd respondent had taken the child and therefore, he would submit that the custody shall be given to the 3rd respondent.

6. Heard the learned counsel for the petitioner as well as the respondents.

7. Admittedly, the child was all along with the mother only. On 20.07.2025, the child had been taken by the 3rd respondent/mother-in-law on the assurance of returning the child after completing the death related ceremonies. The petitioner being the mother and natural guardian, she is entitled to the custody of the child. Therefore, the custody is restored to the petitioner/mother. However, since the 3rd respondent is none other than the mother-in-law and paternal grandmother of the child, we direct the petitioner to permit the 3rd respondent to visit the child on the first and third Saturdays any two hours between 10.00 a.m and 05.00 p.m. It is made clear that the above observations are made only for the disposal of this Habeas Corpus Petition and it will not have bearing in the pending GWOP.



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8. With the above direction, the Habeas Corpus Petition is disposed of.

[A.D.J.C., J.] [R.P., J.]
07.08.2025

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

1. The Superintendent of Police,
Madurai District, Madurai.
2. The Inspector of Police,
AWPS Oomatchikulam Police Station,
Madurai 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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DATED : 07.08.2025