



HCP(MD)No.1250 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.10.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

HCP(MD) No. 1250 of 2025

Mariammal

... Petitioner/Guardian of the detenu

.Vs.

State of Tamil Nadu,

1.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli, Tirunelveli District.

2.The Inspector of Police,
Thalaiuthu Police Station,
Thalaiuthu, Tirunelveli District.

3.The Presiding Officer,
Child Welfare Committee,
Babuji Nagar, Balabagya Nagar South,
Tirunelveli District

4.Deivakani

5.Malliga

...Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus to direct the respondents to produce the person or body of the detenu by name Minor. Priyadharshi, care of Late.Muthusamy, aged 5 years before this Court and handed over custody to the petitioner.



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For petitioner : Mr.Ananthkumar.M.
For R1 to R3 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by **C.V.KARTHIKEYAN., J**)

This Habeas Corpus Petition has been filed complaining that a young child of 5 years old, who was under the custody of the petitioner had been missing.

2. It is the case of the petitioner that the fourth respondent, who is her sister, did not have any children and therefore, the fourth respondent and her husband had adopted the child from Thiruppathur Orphanage at Cuddalore District by following necessary guidelines. The adoption was also registered. It is also seen from the records that a petition was also filed before the Principal District Court, Vellore in Adoption Original Petition No.81 of 2021 by the Society for Rural Development Promotion Services at Thiruppathur under Section 58(3) of the Juvenile Justice Care and Protection of Children Act, 2015 seeking permission to give the young child in adoption to the fourth respondent and her husband T.Muthusamy. By order dated 22.12.2021, the Principal District Court at Vellore had allowed the said petition. During the hearing, the fourth respondent was examined as P.W.3, her husband T.Muthusamy was



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examined as P.W.2 and the Official from the Society for Rural Development Promotion Services was examined as P.W.1. However, subsequently the husband of the fourth respondent passed away on 04.04.2024.

3. It is the very specific case of the petitioner, who is the elder sister of the fourth respondent, that the fourth respondent was not in a position to look after the child and therefore, the fourth respondent handed over the child to the petitioner herein.

4. The learned counsel for the petitioner claimed that the petitioner was having the custody of the child and taking care of the child for the past 2 ½ years. This statement by the learned counsel for the petitioner is however contested and disputed by the learned counsel for the fourth respondent.

5. The fourth respondent had then given a complaint stating that the child had been taken away by the petitioner herein. This complaint had been lodged before the second respondent police, namely, Thalaiuthu Police Station, Tirunelveli District. In this connection, CSR No.747 of 2025 had been registered on 29.09.2025. This CSR was closed after some enquiry since the contesting parties were sisters.



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6. Thereafter another FIR came to be registered on a complaint given by the District Child Protection Officer, District Child Protection Unit, Tirunelveli District. This complaint was lodged for the offences punishable under Section 93 of BNS Act and Sections 75 and 80 of Juvenile Justice Act. It had been stated that when the complainant went over the resident of the fourth respondent, while making enquiries about the child, the child was not present and the fourth respondent refused to divulge the correct information, where the child was.

7. The petitioner in her affidavit stated that she came to know that the fourth respondent along with the fifth respondent, who is also another sister of the petitioner, had sold the child for money. She had therefore submitted a complaint before the Child Welfare Board, Tirunelveli, requesting that the child should be rescued. On the basis of that complaint, the District Child Protection Officer, District Child Protection Office at Tirunelveli started to make enquiries and lodged a complaint before the All Women Police Station, Tirunelveli and in this regard, FIR in crime No. 60 of 2025 had been registered for the offences aforesaid mentioned.

8. It is thus seen that the petitioner had no legal right over the child



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and had lodged a complaint that the fourth respondent had sold the child along with the fifth respondent. The fourth respondent had lodged a complaint that the child had been taken away by the petitioner.

9. In the midst of the internecine quarrels among the sisters, it is the child who had suffered.

10. Adoption Regulations 2022 and Section 14(b) of Juvenile Justice (Care and Protection of Children) Act provides that in the case of dissolution of adoption, a petition will have to be filed by a specialized adoption agency before the District Magistrate/District Collector through the District Child Protection Unit. The regulation also provides that two sessions of counselling will have to be completed before making any application and if dissolution is ordered, the child would be legally free for adoption. After following due procedure, the District Magistrate/District Collector should pass an order cancelling the earlier adoption and updating the status of the child as legally free for adoption on the designated portal within three days. This procedure will have to be followed. We would extract the rules which are as follows:

"As per the Adoption Regulations 2022 chapter III Section 14(6) it has been stipulated that, "In case of dissolution, the application for annulment of adoption order shall be filed by the



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Specialized Adoption Agency with the District Magistrate through District Child Protection Unit

(b) No application should be filed until two counselling sessions have been completed by the local Specialized Adoption Agency or District Child Protection Unit before making any decision concerning disruption or dissolution;

(c) Post dissolution order, the child shall become legally free for adoption;

(d) The Specialized Adoption Agency or the District Child Protection Unit shall update the child's status as legally free for adoption on the Designated Portal within three days".

11. In view of the serious allegations raised against the petitioner by the fourth respondent and against the fourth respondent by the petitioner, we are of the firm view that the child should not be handed over either to the petitioner or to the fourth respondent.

12. We have taken a conscious decision not to hand over the child to the fourth respondent, who though armed with an order of adoption is a named accused in FIR in Crime No. 60 of 2025 on the basis of the complaint given by the District Child Protection Officer. The specific allegation is that the fourth respondent had sold the child for money. An order had also been passed directing the fourth respondent to hand over the child back to the adoption



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agency to make the child legally free for further adoption. In spite of the same, the fourth respondent had not handed over the child but alleged that the petitioner had taken away the child.

13. In these circumstances, we have called for the presence of the District Child Protection Officer from the Collectorate at Tirunelveli. Mrs.G.Arulselvi, the District Child Protection Officer, Collectorate, Tirunelveli is also present in the court. We are of the view that the child must be handed over to the custody to the District Child Protection Officer. We would place a caveat on the said Officer that if at all dissolution of the earlier adoption is made by due process of law, then special care must be taken while handing over the child in adoption to any another adoptive parents.

14. It is also informed that two counselling sessions have also been done on 22.07.2024 and again on 17.03.2025. We are confident that the report of the counselling sessions will be taken due note by the District Magistrate/ District Collector when orders are passed on the application, if filed, for dissolution of the adoption order.



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15. This petition is closed. The child is handed over to the District Child Protection Officer, Tirunelveli to have custody and abide by the order of the District Magistrate/District Collector.

(C.V.K., J.) (R.V., J.)
27.10.2025

CM



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To,

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli, Tirunelveli District.
- 2.The Inspector of Police,
Thalaiuthu Police Station,
Thalaiuthu, Tirunelveli District.
- 3.The Presiding Officer,
Child Welfare Committee,
Babuji Nagar, Balabagya Nagar South,
Tirunelveli District
- 4.The District Child Protection Officer,
Collectorate, Tirunelveli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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