



WEB COPY

H.C.P.No.238 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2026

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THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No. 238 of 2026

P.Dhivakar

..Petitioner(s)

Vs

1. The State Rep.by
The Commissioner of Police,
Chennai.
2. The Inspector of Police,
D1 Triplicane Police Station,
Chennai.
3. D.Vishalakshmi
W/o.P.Dhivakar
4. V.Kamala

..Respondent(s)

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus, directing respondents 1 and 2 to produce the petitioner's minor daughter namely D.Sai Shaitra, D/o.Dhivakar, aged about 3.5 years before this Court and handover minor child to the petitioner.

For Petitioner(s) : Mr.V.Karthikeyan



For Respondent(s):

Mr.A.Damodaran
Additional Public Prosecutor
assisted by Mr.M.Karthikeyan
for R1 and R2

ORDER

(Order of the Court was made by P.VELMURUGAN, J.)

This Habeas Corpus petition has been filed seeking a direction to respondents 1 and 2 to produce the petitioner's minor daughter, namely D.Sai Shaitra, D/o.Dhivakar, aged about 3 years 5 months before this Court and to handover her custody to the petitioner.

2. The case of the petitioner is that he is the biological father of the minor child D.Sai Shaitra, born out of a lawful wedlock with the third respondent. Owing to disputes arising out of the marital relationship, the petitioner and the third respondent are living separately. It is alleged that the third respondent has forcibly taken the minor child from the lawful custody of the petitioner and has illegally detaining her till date. Though a complaint has been lodged before the respondents-Police, no effective action has been taken. Hence, the present petition.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 and 2 and perused the materials available on record.



4. It is not in dispute that the petitioner and the third respondent are the biological parents and natural guardians of the minor child, D.Sai Shaitra. The grievance projected in the present petition relates to custody of the minor child arising out of matrimonial disputes between the parties.

5. It is well settled that a writ of habeas corpus in matters of child custody is maintainable only where the detention is proved to be illegal or without authority of law. When the minor child is in the custody of one of the natural guardians, such custody cannot ordinarily be termed as illegal. In such circumstances, adjudication of custody rights necessarily involves appreciation of evidence and determination of the paramount welfare of the child, which cannot be undertaken in summary proceedings under Article 226 of the Constitution of India. The petitioner has an effective and efficacious alternative remedy under the Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956, to approach the competent Civil Court for appropriate relief.

6. In view of the above, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of Constitution of India. Accordingly, the Habeas Corpus Petition is dismissed. However, it is open to



the petitioner to work out his remedy before the competent forum, in the manner known to law.

(P.V.,J.) (M.J.R.,J.)
09.02.2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

1. The Commissioner of Police,
Chennai.
2. The Inspector of Police,
D1 Triplicane Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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**P.VELMURUGAN, J.
AND
M.JOTHIRAMAN, J.**

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