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H.C.P.No.481 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2026

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.481 of 2026

K.Divya, Female/22 years
D/o. Krishnan,
Door No.4/115, Koneri Agraharam,
Koppakkarai Post, Denkanikottai Taluk,
Krishnagiri District - 635 116

.. Petitioner

VS

1.The Superintendent of Police,
Office of the Superintendent of Police,
District Police Office,
Krishnagiri - 635 115.

2.The Inspector of Police,
All Women Police Station,
Denkanikottai,
Krishnagiri District.

3.C.Gopalakannan, Male/30 years,
S/o.Chandran,
Door No.3/758, Pikkal Naikkanahalli,
Bommanur Post, Jakkasamudran,
Palacode, Dharmapuri – 636 805.

4.The Deputy Superintendent of Police,
Krishnagiri District.
(*suo motu impleaded*
vide this order dated 7.4.2026)

.. Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondents herein to produce the petitioner's daughter namely child. Bhavana, female, aged 3 years, daughter of Gopalakannan / 3rd respondent, before this Court and handover her to petitioner.

For Petitioner : Mr.V.Vasudevan

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.N.Narkeeran
for R1, R2
Mr.V.Sivaraman,
for R3

ORDER

(Made by Dr. ANITA SUMANTH, J.)

The petitioner seeks production of her daughter Minor Bhavana, aged about 3 years (D.O.B 05.06.2023). According to her, the child is in illegal detention by R3, her husband since August, 2025, when after domestic abuse and assault, she was thrown out of the matrimonial home. She states in the affidavit that, despite several attempts, her husband and the family members are not allowing to even see the child.

2. When questioned about the elapse of time between August, 2025 and March, 2026, when this habeas corpus petition was instituted, she had



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stated that she was unable to obtain any assistance from the police despite strenuous efforts, ultimately lodging a complaint before the authorities only on 23.02.2026. We had hence asked all the parties to be present in the Court and have conversed with them on the previous occasion i.e., 01.04.2026 and today.

3. There are allegations and counter allegations that the petitioner and R3 have made about each other. We do not wish to chronicle the same now as that constitutes personal differences which they should reconcile before the appropriate forum and not in this petition.

4. We are concerned solely with the decision as to whether the minor child is in illegal detention. Admittedly, the child is three years old and as per provisions of Section 6 of the Hindu Minority and Guardianship Act, 1956, in the case of a child of either sex, less than the age of five, ordinarily, it is the mother, who shall have custody.

5. In the present case, we have seen the child in the Court hall and she appears to be comfortable with the paternal grandmother and R3. In a matter such as the present, our considerations would be guided solely by the interests of the child.

6. The question of illegal detention of the child does not arise since she is with the father, as against whom the petitioner has not made any allegations, qua the child. Moreover, the child has been with the father for



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the last eight months i.e., since July, 2025. Her demeanour and behaviour also persuades us not to disturb the minor at this point in time.

7. We are conscious of the fact that the mother should also have the right to visit the child and the child should also not be deprived of love and affection of the mother. Having regard to the marked animosity between the parties, and not wishing to cause any hindrance to the child, we leave it to the parties to work out an amicable arrangement, where the mother can also spend time with the child.

8. On conversing with R3, we are given to understand that despite the allegations he has levelled as against the petitioner, he would be willing to resume marital relationship with her. It is the petitioner who, at the moment, has some reservations. Assuming that this position alters, there is every possibility that the child would have the affection of both parents.

9. For the purposes of this habeas corpus petition, there is nothing further to be recorded. To reiterate, the parties are at liberty to workout their personal affairs in a manner they deem fit and we also make it clear that no observation made in this order will influence any other proceeding.

10. While closing the habeas corpus petition, we suo motu implead The Deputy Superintendent of Police, Krishnagiri District, as respondent



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no.4, for whom, Mr.Muniyapparaj, learned Additional Public Prosecutor, accepts notice, and direct him to file a status report of how matters have panned out, specifically the well being of the minor, by 08.06.2026. No costs.

[A.S.M, J.] [S.M, J.]
07.04.2026

Index : Yes/No
Neutral Citation : Yes
ssm

Note : Registry to circulate the status report once filed, to us in the Chambers.

To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
District Police Office,
Krishnagiri - 635 115.
- 2.The Inspector of Police,
All Women Police Station,
Denkanikottai, Krishnagiri District.
- 3.The Deputy Superintendent of Police,
Krishnagiri District.
- 4.The Public Prosecutor,
High Court, Madras.

Copy to :

The Section Officer,
Criminal Section, High Court, Madras.



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and
SUNDER MOHAN,J.

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