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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HON'BLE MR.JUSTICE B.KARTHIKEYAN

HCP No. 2125 of 2026

CNR: {HCMA012467652026}

Case QR

..Petitioner(s)

Vs

1. The Commissioner of Police
   Greater Chennai Police,
   Chennai-600 007.
2. The Inspector of Police
   W-32, All Women Police Station,
   Madipakkam, Chennai-600 117.

..Respondent(s)

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus directing the 1st and 2nd respondent police to produce the petitioner's son minor child , aged 3, who is under the illegal custody of the 3th respondent before this Court and hand over to the petitioner.

For Petitioner(s): Mr. K.Venkatesan
For Respondent(s): Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R1 and R2
Mr.A.Nagarajan for R3

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(Order of the Court was made by A.D.Jagadish Chandira J.)

The case of the petitioner is that she is a medical doctor by profession and that her marriage with the third respondent was solemnised on 21.01.2021 at Puducherry. Through the wedlock, two children were born, the first child on 28.06.2023 and the second child on 08.10.2024. The petitioner further states that she was subjected to verbal and physical abuse and harassment by the third respondent. During the course of the matrimonial disputes, the third respondent allegedly threatened her with an aruval. Due to the alleged harassment and cruelty, the petitioner left the matrimonial home along with her children and has been residing with her mother at Madipakkam, Chennai.

2. While so, on 28.08.2026, at about 2.00.p.m., the third respondent allegedly came to the petitioner's parental home and forcibly took away the minor child, , without her consent. Aggrieved by the same, the petitioner lodged a complaint before the second respondent, pursuant to which, a case was registered in CSR.No.0187 of 2026 and a CSR receipt was issued. As no further action was taken on her complaint, the petitioner submitted a representation to the second respondent on 24.09.2026. Since no further action was forthcoming, the petitioner has approached this Court by filing the present Habeas Corpus Petition.

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3. Mr.K.Venkatesan, learned counsel for the petitioner, submits that owing to the constant harassment and cruelty allegedly inflicted by the third respondent, the petitioner was constrained to leave the matrimonial home and reside with her mother along with her children. While so, the third respondent came to the petitioner's maternal home and forcibly took away the minor child, who is aged about two years and requires maternal care. Since no effective action was taken by the respondents to secure the custody of the minor child, the petitioner has filed the present Habeas Corpus Petition.

4. Mr. A.Nagarajan, learned counsel for the third respondent submits that the third respondent is none other than the father and natural guardian of the minor child. He further submits that the third respondent has secured admission for the child in 'Lycée Français International de Pondichéry'. Since the school had commenced and the petitioner did not come with the child, the third respondent went to the residence of the petitioner and took the child. However, the learned counsel acknowledges that matrimonial disputes are pending between the parties and submits that, if the matter is referred to mediation, there is a possibility of an amicable settlement between the parties.

5. Mr. M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents 1 & 2, on instructions, submits that, owing to the

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matrimonial disputes, the petitioner left the matrimonial home with her children and has been residing with her mother within the jurisdiction of the second respondent police station. On 28.08.2026, the third respondent allegedly took the minor child, from the custody of the petitioner. Based on the complaint lodged by the petitioner, an enquiry was initiated and CSR No.0187 of 2026 was registered. Despite being summoned, the third respondent failed to appear before the second respondent and instead, sent a reply stating that he was taking care of the child. The learned Additional Public Prosecutor further submits that the enquiry is still pending and that, in the meantime, the petitioner has approached this Court.

6. Heard the learned counsel appearing for the petitioner and the third respondent, as well as the learned Additional Public Prosecutor appearing for respondents 1 and 2, and perused the materials available on record.

7. Admittedly, matrimonial disputes are pending between the petitioner and the third respondent, and the parties are living separately. The petitioner is presently residing with her mother at Madippakkam. It is alleged that, while the petitioner was residing at her maternal home, the third respondent came there and forcibly took away the minor child.

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8. Though the third respondent is the father and natural guardian of the child, who is just about 2 ½ years old, the custody of the minor child cannot be taken by force and must be sought in accordance with the procedure established by law.

9. In view of the above facts and circumstances, the third respondent is directed to hand over the custody of the minor child to the petitioner. This Court hastens to add that the observations made in this order are confined to the disposal of the present Habeas Corpus Petition and shall not influence the adjudication of any subsequent proceedings initiated by either party before the appropriate forum.

10. With the above direction and observation, this Habeas Corpus Petition stands closed.

(A.D.J.C.,J.) (B.K.,J.)
27-10-2026

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

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2. The Inspector of Police
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3. The Public Prosecutor,
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A.D.JAGADISH CHANDIRA, J.
AND
B.KARTHIKEYAN, J.

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