

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(Cr1.).No. 501 of 2014 (S)

PETITIONER(S) :

SUHARA JABBAR, AGED 52 YEARS
D/O THOTTATHIL PARAMB MOHAMMED,
RESIDING AT MAKKCHA PARAMB, ASHOKA ROAD, KALOOR,
KOCHI-17.

BY ADV. SRI.R.GOPAN

RESPONDENT(S) :

1. THE DIRECTOR GENERAL OF POLICE
POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM - 695 001
2. INSPECTOR GENERAL OF POLICE
THIRUVANANTHAPURAM RANGE, POLICE HEAD QUARTERS
THIRUVANANTHAPURAM - 695 001
3. DEUPTY SUPERINTENDENT OF POLICE
ATTINGAL, THIRUVANANTHAPURAM - 695 001
4. SUB INSPECTOR OF POLICE
ATTINGAL POLICE STATION
THIRUVANANTHAPURAM - 695 001
5. SHAJAHAN,
AGED 57 YEARS, S/O. SALAKUDEEN,
PALLIVILA PUTHEN VEEDU
CHEMBOOR, VALAKKADU - 695 121
6. EQBAL, CHEMBOOR VILLAGE, VALAKKADU DESOM,
THIRUVANANTHAPURAM DISTRICT - 695 121
7. NAZAR, BROTHER OF SHAJAHAN, VAKKOM DESOM
CHEMBOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT, PIN - 695 121.

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8. NISHAD, S/O. NAZAR
VAKKOM DESOM, CHEMBOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT - 695 121

9. SHERIN, SHERIN MANZIL,
VALAKKAD, CHEMBOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT - 695 121.

R1-R4 BY ADV. TOM JOSE PADINJAREKKARA,
ADDL.DIRECTOR GENERAL OF PROSECUTION

R6-R8 BY ADV. SRI.P.HARIDAS

R6-R8 BY ADV. SMT.S.SIKKY

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY
HEARD ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1:- COPY OF THE FIR IN CRIME NO. 1097/2014 DATE 23-07-2014 OF ATTINGAL POLICE STATION.

EXHIBIT P2:- COPY OF THE FIR IN CRIME NO. 1182/2014 DATED 07-08-2014 OF ATTINGAL POLICE STATION.

EXHIBIT P3:- COPY OF THE COMPLAINT FILED BY THE DETENUE AND HER MOTHER DATED 23-10-2014 BEFORE THE 1ST RESPONDENT.

EXHIBIT P3(a) : COPY OF THE COMPLAINT FILED BY THE DETENUE AND HER MOTHER BEFORE THE 2ND RESPONDENT DATED 23-10-2014.

EXHIBIT P3(b) : COPY OF THE POSTAL RECEIPTS ISSUED BY THE RESPONDENTS.

EXHIBIT P4:- COPY OF THE COMPLAINT FILED BY THE DETENUE'S MOTHER BEFORE THE HONOURABLE HOME MINISTER FOR KERALA.

EXHIBIT P4(a) : COPY OF THE RECEIPT DATED 08-12-2014.

RESPONDENT(S) ' EXHIBITS

EXHIBIT R6(a) : COPY OF MARRIAGE CERTIFICATE DATED 27.04.2009.

EXHIBIT R6(b) : COPY OF VOTERS LIST PUBLISHED FOR THE YEAR 2014.

EXHIBIT R6(c) : COPY OF SALE DEED NO.337/2012 DATED 08.03.2012.

EXHIBIT R6(d) : COPY OF PETITION IN OP NO.893/2014 DATED 28.08.2014.

//TRUE COPY//

PA TO JUDGE.

THOTTATHIL B.RADHAKRISHNAN &
BABU MATHEW P. JOSEPH, JJ.

.....
WP(Crl.) No.501 of 2014
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Dated this the 5th day of January, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. Read the two orders minuted on 20.12.2014.
2. Following that, detenue Hameeda has been traced out. She is present before us. The third respondent Deputy Superintendent of Police, Attingal, is also present. Hameeda's sister, her mother and her paternal aunt, who is the petitioner in this writ petition, are also present. We interacted with Hameeda, her sister, her mother and the petitioner. Hameeda is well oriented. She says that she is educated and holds Diploma in Pharmacy. She says further that she was in illegal confinement under threat in duress by the fifth respondent by holding out a faked marriage, which is not there. She has no children. She is really apprehensive about threat to her life and limb. She says that even before she was saved from his custody while in Chennai, she has been threatened

with dire consequences by Shajahan. She has also been threatened of loss of life and limb of her mother, siblings, etc.

3.The learned State public prosecutor submits that three crimes have been registered and in the course of investigations of those crimes, offences get added on, on the basis of various materials unearthed. He says that the investigations in those cases are going on in proper direction, in terms of law.

4.Our interactions with the petitioner, Hameeda, her sister and mother have clearly shown to our satisfaction that for the time being, Hameeda would reside with the petitioner, who is her paternal aunt. Hameeda, her mother and sister and the petitioner have this unanimous opinion, taking into consideration the best interest of Hameeda and her relatives. We interacted with the petitioner further to find out her ability and support of her immediate family to accommodate Hameeda, as well. She says that her husband Jabbar has wholesale business in chips and her

son and daughter-in-law stay with her. The family unit can easily take care of the affairs and needs of Hameeda, it is submitted by the petitioner. On our query, the petitioner says that she stays within the jurisdiction of Elamakkara Police Station. We are satisfied that the course to be adopted by the aforesaid near relatives of Hameeda would suffice to take care of her interest, apart from requisite police surveillance and further directions, as we may issue hereunder.

5. We record that Hameeda will stay with the petitioner Suhara Jabbar, under her care and protection. We also record the petitioner's statement that her immediate family will also support this course of action. The Station House Officer of Elamakkara Police Station will authorise a woman police constable, not in uniform, to visit the house of the petitioner once in a week to ascertain the well-being and affairs of Hameeda. If any direction is required for further management of Hameeda's affairs, that shall be brought to the notice of the District Collector, Ernakulam

and the District Police Chief, Ernakulam. We issue this direction to ensure that there should be effective socio-economic assistance for Hameeda, a challenged female in need, who has also necessary educational qualifications and because she may require other modes of protective support through different limbs of governance. Taking into consideration the threat apprehended by Hameeda, it is ordered that Elamakkara Police will have an appropriate surveillance, as may be necessary, in the area, including by ascertaining from the third respondent as to the nature of activities attributed to the fifth respondent Shajahan, who is now stated to be in custody along with other accused persons. It shall be ensured that the fifth respondent Shajahan or any of his accomplices or persons close to him does not, in any manner, obtain access to the petitioner or Hameeda. The fifth respondent is also hereby prohibited from meeting the petitioner or Hameeda or her mother, unless he obtains an order from the competent jurisdiction permitting him to do so.

The first respondent Director General of Police shall issue consequential instructions to the jurisdictional police in Ernakulam District to give effect to the directions contained in this judgment. This writ petition is ordered accordingly.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(BABU MATHEW P. JOSEPH, JUDGE)

jg