

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(Cr1.).No. 516 of 2014 (S)

PETITIONER(S):

K.RAMABHADRAN, AGED 55 YEARS
S/O.KESHAVAN PANIKKAR, RESIDING AT VAISAKHAM, PALIYODE
KOTTAIKKAL P.O., PERUMKADAVILA (VIA), TRIVANDRUM.

BY ADV. SRI.C.K.SREEJITH

RESPONDENT(S):

1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUAD
TRIVANDRUM - 695 121.
2. DEPUTY SUPERINTENDENT OF POLICE,
NEYYATTINKARA, TRIVANDRUM - 695 121.
3. CIRCLE INSPECTOR OF POLICE,
NEYYATTINKARA POLICE STATION
NEYYATTINKARA,
TRIVANDRUM- 695 121.
4. SUB INSPECTOR OF POLICE,
MARAYAMUTTAM POLICE STATION, TRIVANDRUM - 695 124.
5. JOSE,
REAL ESTATE BROKER, RESIDING AT FLAT NO.119
VRINDAVAN GARDEN, NEAR VYDHUDDHI BHAVAN, PATTOM
TRIVANDRUM - 695 004.
6. RANI,
RESIDING AT FLAT NO.119, VRINDAVAN GARDEN
NEAR VYDHUDDHI BHAVAN, PATTOM, TRIVANDRUM - 695 004.

R1-R 4 BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION
R6 BY ADV. SRI.JAYAN.C.DAS
R6 BY ADV. SRI.GEORGE SEBASTIAN
R3 BY ADV. GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ami/

V.K.MOHANAN & P.D.RAJAN, JJ.

W.P.(Crl.)No.516 of 2014

Dated this the 15th day of January, 2015.

J U D G M E N T

Mohanana, J.

Though the above petition is not posted today, the learned Additional Director General of Prosecution Sri.K.A.Abdul Rasheed submitted in the morning that the detenua in this case has been traced out and she is to be produced before this Court and accordingly we directed the Registry to post the above matter before this Court after lunch. Thus when the case is taken up today after lunch, though the petitioner is not present, the learned counsel for the petitioner appeared, since we have directed the learned Additional Director General of Prosecution to inform him about the posting of the above matter.

2. As the detenua is available before us, we have interacted with her. Thus she submitted before us that, due to some difference of opinion, she used to go, leaving the

petitioner, to her parental house and thus she left the house of the petitioner on 15.11.2014 in protest of the conduct of the petitioner towards her and her difference of opinion with him. She submitted before us that, she is not under the illegal custody of 5th or 6th respondent. As per her version, when the Police came to her parental house on 6.1.2015, she was present in the house and as directed by the police, she went along with the police to Marayamuttam Police Station and thereafter she was produced before the Judicial First Class Magistrate court-III, Neyyattinkara, from where, she was set free. But she was not aware of the posting of the case in this Court and therefore she could not appear before this Court on 6.1.2015 and subsequently her brother, who was one of the signatories to the statement made before the learned Magistrate, informed her about the pendency of the present writ petition before this Court and thus, as per the request of the police, she came over to Ernakulam to

appear before this Court.

3. At this juncture, it is relevant to note that when this Court admitted the above writ petition on 17.12.2014, we have also directed respondents 1 to 4, the Police Officials, to see that 5th and 6th respondents had complied with the direction issued therein. However, after taking an adjournment on 20.12.2014, when the case was taken on 9.1.2015, the learned Additional Director General of Prosecution submitted that, obeying the order dated 17.12.2014, the Sub Inspector of Police, of Marayamuttam Police Station, who is the 4th respondent, produced the detainee before the jurisdictional Magistrate on 6.1.2015 as directed by the 2nd respondent - Deputy Superintendent of Police, Neyyattinkara, and accordingly, the detainee was released by the learned Magistrate without informing her about the posting of the present case before this Court.

4. However, it is submitted today by the learned Additional Director General of Prosecution that, the Sub

Inspector has produced the detainee before the learned Magistrate, not on the basis of the direction issued by the 2nd respondent, but by the 3rd respondent - Circle Inspector of Police, Neyyattinkara. The Sub Inspector of Police, Neyyattinkara, is present today in person before this Court and he preferred an affidavit dated 15.1.2015 and in paragraph 10 of the affidavit it is stated as follows :

“It is humbly submitted that this respondent has taken all effective steps to produce the detainee Smt.Suchetha before this Hon'ble Court. There is no willful laches or negligence or disobedience from the part of this respondent to comply the Order of this Hon'ble Court in time. I express sincere apology in not producing the detainee on 9.1.2015 and the said omissions may kindly be excused. It is humbly prayed that this Hon'ble Court may be pleased to accept this affidavit in the interest of justice.”

We are not fully satisfied with the approach of the Police officers in this case and producing the detainee before the jurisdictional Magistrate, despite the specific direction issued by this Court to respondents 1 to 4 to produce the detainee before this Court. It is also a failure on the part of

the Police Officer concerned, in not conveying the jurisdictional Magistrate about the order passed by this Court for producing the detenue before this Court. However, we are not proposed to further probe into the matter. But, we are constrained to observe that as the habeas corpus is mainly concerned with the liberty of persons, the Police Officers are expected to scrupulously follow the directions issued by this Court. We hope that in future, similar fault will not be repeated.

5. As the detenue in this case submitted before us that, she volunteers to go, leaving the company of the petitioner, to her parental home and particularly when she stated before us that, she is not under the illegal custody of anybody, we find no reason to proceed further with the enquiry in this proceedings. As the detenue is not under the illegal custody of anybody and she is not interested to go along with the petitioner, she is at liberty to go as per her desire and decision. This petition is accordingly closed.

In view of the affidavit filed by the 3rd respondent, the 1st respondent need not file any affidavit as directed by us on 9.1.2015.

The writ petition is closed accordingly.

Sd/-
V.K.MOHANAN, Judge

Sd/-
P.D.RAJAN, Judge

ami/

//True copy//

P.A.to Judge