

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN

&

THE HONOURABLE MR. JUSTICE P.D. RAJAN

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(CrI.).No. 530 of 2014 (S)

PETITIONERS:

1. LUIS P.C. , AGED 52 YEARS
S/O. LATE CHERIYA, PONTTHOKKAN HOUSE, P.O. CHENGALLOOR
PIN - 680 312, SNEHAPURAM, PUTHUKKAD, THRISSUR DISTRICT.
2. LIZZY LUIS, AGED 52 YEARS
W/O. LUIS P.C., PONTTHOKKAN HOUSE, P.O. CHENGALLOOR
PIN - 680 312, SNEHAPURAM, PUTHUKKAD, THRISSUR DISTRICT.

BY ADV. SMT. P.K. PRIYA

RESPONDENTS:

1. DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS,
THIRUVANANTHAPURAM 695 001.
2. DISTRICT RURAL POLICE SUPERINTENDENT
THRISSUR - 680 001.
3. CIRCLE INSPECTOR OF POLICE
PUTHUKKAD POLICE STATION, THRISSUR DISTRICT 680001.
4. SUB INSPECTOR OF POLICE, S. PUTHUKKAD POLICE STATION
THRISSUR DISTRICT 680001.
5. MANU MOHAN, AGED 25 YEARS
S/O. MOHANAN, MARASSERY HOUSE, MARAVONCHERY
P.O. CHENGALLOOR, PIN - 680 312, THRISSUR DISTRICT.
6. MOHANAN
MARASSERY HOUSE, MARAVONCHERY, P.O. CHENGALLOOR
PIN - 680 312, THRISSUR DISTRICT.
7. SUBRADHA @ AMMU MOHANAN
MARASSERY HOUSE, MARAVONCHERY, P.O. CHENGALLOOR
PIN - 680 312, THRISSUR DISTRICT.

R6 & R7 BY ADV. SRI. RAJESH CHAKYAT

R1 TO R4 BY GOVERNMENT PLEADER SMT. KOCHUMOL KODUVATH

R5 BY ADV. SRI. C. RAJENDRAN

R5 BY ADV. SMT. R.S. SREEVIDYA

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONERS' EXHIBITS

EXT.P1 THE TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE
OF THE DETENUE

EXT.P2 THE TRUE COPY OF THE COMPLAINT FILED BY THE IST PETITIONER
BEFORE THE 2ND RESPONDENT DATED 16.12.2014

EXT.P3 THE TRUE COPY OF THE RECEIPT DATED 16.12.2014.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

AHZ/

K.T.SANKARAN & P.D.RAJAN, JJ.

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Dated this the 12nd day of February, 2015

JUDGMENT

K.T.Sankaran, J.

The allegation made in the Writ Petition is that the minor daughter of the petitioners was enticed away by the fifth respondent and she was under his illegal detention. On information given to the police, a crime was registered. When the case was taken up on 26.12.2014, it was submitted by the learned Government Pleader that the police was unable to trace out the detainee and the whereabouts of the fifth respondent. Respondents 6 and 7, the parents of the fifth respondent, stated that they were unaware of the whereabouts of the fifth respondent. The case was posted on 30.12.2014, on which date, another Division Bench passed the following order:

“The learned counsel for the petitioner submits that despite giving all the available information to the police, no proper action has been taken so far.

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2. The learned Government Pleader appearing for the respondents 1 to 4 submits that investigation is going on to trace out the whereabouts of the detainee, but the detainee could not be located so far. The second respondent is directed to file an affidavit as to the course and events till date. Going by the contents of Ext.P1 SSLC, the detainee is still to attain majority. Respondents 6 and 7 plead ignorance as to the particulars of the 5th respondent and the detainee. The 5th respondent shall be arrested satisfying all legal requirements and produced before this Court.

3. If the detainee is not produced by next posting date and if the second respondent fails to file affidavit as aforesaid, he shall be personally present before this Court to explain the sequence of events and to proceed with further steps in connection with the issue.

Post on 05.01.2015.”

2. On 4.2.2015, yet another Division Bench passed the following order:

“The petitioners are parents of one Neethu Louis. According to the petitioners, their daughter is a plus two student at St.Paul's School, Kuriachira, Thrissur District. On 14.12.2014 at about 2 a.m. she was taken by the 5th respondent with the help of respondents 6 and 7, who are parents of the 5th respondent and some identifiable friends, who are friends of the 5th respondent.

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According to the petitioners, when they came to know about the missing of their daughter, the 2nd petitioner informed the matter to the first petitioner, her husband, who is working abroad and the brother of the first petitioner. Immediately, thereafter the brother of the first petitioner lodged a complaint before respondents 3 and 4, based upon which Crime No. 2136/2014 was registered in the Puthukkad Police Station. However, it is alleged that though a crime was registered, no effective investigation was conducted and as such, there was no progress. On the arrival of the 1st petitioner, he approached the 2nd respondent and filed a complaint dated 16.12.2014 as evidenced by Ext.P2, which was accepted by the 2nd respondent as evidenced by Ext.P3. It is further case of the petitioners that they learnt that their daughter was in love with the 5th respondent and he had abducted her and detained in illegal custody of 5th respondent. Under the above circumstances, they preferred this writ petition praying inter alia to issue a writ in the nature of Habeas Corpus directing respondents 1 to 4 to produce the detenu, Neethu Louis before this Honourable Court and to hand over the detenu to the petitioners.

2. When the above writ petition came up for admission and while issuing notice to respondents 5 to 7, by order dated 26.12.2014, they were directed to produce the detenu before this Court on 23.12.2014. Though the police conducted investigation on various levels, the detenu could not be traced out and thus subsequently by orders dated 26.12.14, 30.12.14, 5.1.2015, 7.1.2015 and 20.1.2015, we granted them time to trace out the detenu and to produce before this Court.

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3. That being the position, though the above case is not posted today, after lunch, the learned Government Pleader submitted that the detenu in the above case is appearing before this Court and accordingly the above case is taken today.

4. We heard the learned counsel appearing for the petitioners, 5th respondent, as well as the counsel for respondents 6 and 7. We have also heard learned Government Pleader. We interacted with the detenu as well as with the petitioners.

5. During our interaction, Miss. Neethu Louis submitted before us that she is a plus two student and her date of birth is 24.6.1997 and she has not completed 18 years. She is also submitted before us that she volunteered to go along with the 5th respondent since they were in love. According to her, she was in the house of one of the friends of 5th respondent, along with the 5th respondent and she came over to Ernakulam from the said house. When we put a question to the detenu as to whether she is interested to go along with the parents, she is very adamant to go along with the petitioners and submitted that if she is allowed to go along with them, they will not permit her to join with the 5th respondent, her lover. So, according to the detenu, she wants to join with the 5th respondent, who is the son of respondents 6 and 7.

6. When we interacted with the parents of said Neethu Louis, they submitted before us that after the missing of their daughter from her house, she was residing along with the 5th

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respondent and under that circumstances, they are not interested in giving her in marriage to any other person and if she is prepared to go along with them they are ready to give her in marriage to the 5th respondent on her attaining the marital age and in the meanwhile she can appear for the plus two examination.

7. On hearing the said stand of the parents, we put the same to the detenu and counsel appearing for respondents 5 to 7 were also asked to advise her to go along with the parents in the light of the offer made by them before this Court. However, after conveying the above stand of the parents, the daughter was not prepared to go along with them and to reside in their house.

8. That being the position, it is not proper on our part in compelling her to go along with the parents. At the same time, this Court will not be justified in permitting her, who is below 18 years to go and join with the 5th respondent at this stage. We find no justification in permitting the detenu to live with the 5th respondent in the absence of any legally permitted relationship. So it is our considered opinion that for the time being and till the daughter of the petitioners attains majority, it is only just and proper to accommodate her in any ladies hostel or any Government owned Mahila Mandiram at Thrissur. Accordingly, we direct the 3rd respondent, Circle Inspector of Police, Puthukad to lodge Miss. Neethu Louis, daughter of the petitioners in Mahila Mandiram at Thrissur today itself for a period of five months.

9. In order to work out the above arrangement, the

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following directions are issued.

- i) The Matron/Warden/Superintendent of Mahila Mandiram at Thrissur, though she is not a party to the above petition, is directed to accommodate the detenu in this case viz, Miss.Neethu Louis in the said Mahila Mandiram for a period of five months.
- ii) Third respondent is directed to provide a woman police officer and Constables to accompany the detenu, viz., Miss Neethu Louis to lodge her at Mahila Mandiram at Thrissur. On her accommodation in the said hostel, Mahila Mandiram, the 5th respondent meet all the expenses connected therewith.
- iii) The petitioners are free to visit Miss Neethu Louis in the Mahila Mandiram at Thrissur.
- iv) The Matron/Warden/Superintendent of Mahila Mandiram at Thrissur is directed to permit the 5th respondent, if he is so interested to visit the detenu in the hostel.
- v) The visitorial right granted to the petitioner and the 2nd respondent and his family members are subject to Rules and Regulations of the Mahila Mandiram where the detenu is ordered to be accommodated.

Post on 26.6.2015 on which date the 3rd respondent is directed to produce the detenu Miss Neethu Louis before this Court escorted with the women Police Constables.”

3. Thereafter on 11.2.2015, the same Division Bench passed the following order:

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“The learned Government Pleader appearing for respondents 1 to 4, by filing a memo, brought up the above matter today, though the above case was posted on 26.6.2015 for further consideration as well as for producing the detenue, Miss. Neethu Louis, before this Court.

2. Thus, the matter is taken today and we have heard the learned Government Pleader and also the learned counsel appearing for the petitioner as well as respondents 5 to 7.

3. The learned Government Pleader submitted that as per the order of this Court dated 4.2.2015, the detenue in the above case has been accommodated in the Mahila Mandiram at Thrissur on 4.2.2015 itself and thus, while she is staying there, she made an application to the Superintendent of Mahila Mandiram, Thrissur, on 7.2.2015 stating that she has realised the sins and she wants to see her parents and go along with them to their house. On the basis of the said application of the detenue, the Superintendent of Mahila Mandiram, Thrissur, by her letter dated 9.2.2015, addressing the 3rd respondent, the Circle Inspector of Police, Puthukkad requested him to take appropriate action in the matter. Accordingly, the learned Government Pleader moved this matter.

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4. While passing an order dated 4.2.2015, we have recorded the deposition made by the detainee and on the basis of which, we decided to accommodate her in a Ladies Hostel. If the detainee changes her version as submitted by the learned Government Pleader, it will be only just and proper to ascertain the said facts from the detainee.

In the result, we direct the 3rd respondent to produce the detainee, Miss. Neethu Louis, who was accommodated in the Mahila Mandiram Hostel, Thrissur, before this Court to tomorrow (12.2.2015) at 10.15 a.m.

Post tomorrow (12.2.2015) at 10.15 a.m.”

4. Today, the petitioners and their minor daughter, the alleged detainee, are present. The alleged detainee stated before us in clear terms that she has realized the mistake and that she wants to live with her parents. The fifth respondent is not present today. The learned counsel for the petitioners submitted that he would not come to Court as a warrant is pending against him. The learned counsel for the fifth respondent submitted that the alleged detainee is not speaking the truth and she is under the influence of the hostel authorities. We permitted the counsel for the fifth respondent to put

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questions to the alleged detainee in our presence. He interacted with the alleged detainee. She stated the same thing which she told us and she stated that she is not under the pressure of anybody. Learned counsel was also satisfied about the genuineness of the statement made by the alleged detainee. Even though such an examination of the alleged detainee need not be resorted to in a case like this, we thought that the learned counsel for the fifth respondent can be permitted to put such questions only to ensure that what the alleged detainee is saying is the truth and also to ensure that she is not making the statements in Court under the pressure of anybody.

5. Now it is fairly clear that the alleged detainee has changed her mind and that she has chosen the right path to live with her parents. It is to be noted that the alleged detainee is a minor and the fifth respondent cannot claim any right over the freedom of the alleged detainee. He cannot question the authority of the parents of the alleged detainee to maintain her.

6. The first petitioner stated before us that the petitioners are

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being threatened by certain goondas at the instance of respondents 5 to 7 and that the petitioners may be afforded sufficient protection. Respondents 3 and 4 shall ensure that respondents 5 to 7 or any of their henchmen do not disturb the peaceful living of the petitioners and their daughter. If any such incident occurs, appropriate stringent action shall be taken by respondents 3 and 4.

The Writ Petition is closed permitting the petitioners to take their minor daughter, the alleged detainee.

Handover copy of the judgment to the learned Government Pleader.

(K.T.SANKARAN)
Judge

(P.D.RAJAN)
Judge

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