

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(Cr1.).No. 2 of 2015 (S)

PETITIONER(S) :

MUKESH, AGED 32 YEARS
S/O MURALEEDHARAN, VILAYIL VEEDU, VAMANAPURAM POST,
KANICHODU, VENJARAMOODU
THIRUVANANTHAPURAM DISTRICT-695001.

BY ADV. SRI.J. JAYAKUMAR

RESPONDENT(S) :

1. THE SUPERINTENDENT OF POLICE (RURAL) ,
OFFICE OF SUPERINTENDENT OF POLICE,
KURAVANKONAM, THIRUVANANTHAPURAM-695 504.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
ATTINGAL, THIRUVANANTHAPURAM DISTRICT-695101.
3. THE SUB INSPECTOR OF POLICE,
VENJARAMMOODU POLICE STATION,
THIRUVANANTHAPURAM-695 105.
4. MUMTAZ SAHARSHA, AGED 46 YEARS,
W/O SAHARSHA, ANAS MANZIL, VAMANAPURAM POST
THIRUVANANTHAPURAM DISTRICT-695 105.

BY ADV.SRI.SANI S.PANICKER FOR R4,
BY GOVERNMENT PLEADER SMT.JASMINE.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 : TRUE COPY OF THE CERTIFICATE OF MARRIAGE DATED
20-02-2014 ISSUED BY THE SUB REGISTRAR, VAMANAPURAM

EXHIBIT P2 : TRUE COPY OF THE ORDER DATED 26-04-2014 IN WPCRL NO
176/2014 OF THIS COURT

EXHIBIT P3 : TRUE COPY OF THE JUDGMENT DATED 06-05-2014 IN WPCRL NO
176/2014 OF THIS COURT

EXHIBIT P4 : TRUE COPY OF THE COMPLAINT DATED 23-12-2014 FILED BY THE
PETITIONER BEFORE THE 3RD RESPONDENT

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

V.K.MOHANAN & C.K.ABDUL REHIM, JJ.

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Dated this the 12th day of January, 2015.

J U D G M E N T

Mohanan, J.

This writ petition is preferred before this Court, for the 2nd time, alleging that the detenue herein is under the illegal confinement. Initially, the mother of the detenue named Ansi S., preferred W.P.No.176/14 alleging that her daughter is under the illegal custody of the present petitioner. The said writ petition was disposed of by this Court by Ext.P3 judgment, after recording the stand of the detenue therein. Thereafter, the 3rd respondent in the above referred writ petition, now preferred this petition under Article 226 of the Constitution of India alleging that his wife and daughter, aged 3 months, are under the illegal custody of the 4th respondent herein, who is the petitioner in Ext.P3. According to the petitioner, though himself and the detenue herein belonged to different religion were in love and their

marriage was registered as per the Special Marriage Act and a female child was born in the said wedlock. It is alleged that the 4th respondent herein on an earlier occasion tried to take the detinue with her with a view to sent her to Gulf countries, so as to separate her from the company of the petitioner. It is the further allegation that on 23.12.2014, the petitioner's wife, the so called detinue, and child were found missing and though Ext.P4 complaint was filed before the 3rd respondent, no effective step has been taken and therefore he preferred the present petition under Article 226 of the Constitution of India praying inter alia to issue a writ of habeas corpus, commanding respondents 1 to 3 to produce petitioner's wife named Ansi, aged 23 years, and daughter Nakshathra aged 4 months, from the illegal custody of the 4th respondent, before this court.

2. When the above writ petition came up for admission, we issued notice to the 4th respondent and she

was directed to produce the detenue before this Court and respondent nos.1 to 3 were directed to see that the 4th respondent has complied with the above direction.

3. Accordingly, when the matter is taken up today, the wife of the petitioner, who is the daughter of the 4th respondent, appeared before us in person. We have interacted with her and we have also heard the learned counsel appearing for the petitioner and the 4th respondent.

4. The learned counsel for the petitioner vehemently submitted that his wife is under the illegal custody of the 4th respondent and when the detenue enter into this Court hall, she was not permitted to talk with the petitioner and if the petitioner and the detenue talk for some time, the entire dispute can be settled. Whereas, the 4th respondent's counsel submits that the detenue herself had approached this Court by filing a writ petition for police protection which is pending for consideration.

5. As the detenue is personally available before us, we interacted with her and she submits that she is not under the illegal custody of anybody including the 4th respondent, her mother. When we put to the detenue about Ext.P3 judgment and the facts lead to filing of W.P.No.176/14, she submitted before us that, at that time, she had no clear understanding about the petitioner and his family members and therefore she took such a stand and expressed her opinion to go along with the present petitioner. However, now the alleged detenue deposed before us that she is not under the illegal custody of anybody and she wants to go along with the 4th respondent. In such a situation, we find no reason to proceed further with the enquiry in this proceedings. The detenue has also deposed before us that she had already contacted her lawyer to move the Family court concerned, against the petitioner herein. If that be so, if there is any family dispute subsists among them, they can pursue their

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remedies in the appropriate court. As no order is warranted in this petition in view of the present stand of the alleged detainee, this writ petition is closed.

Writ petition is closed accordingly.

Sd/-

V.K.MOHANAN, Judge

Sd/-

C.K.ABDUL REHIM, Judge

ami/

//True copy//

P.A.to Judge