

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(Crl.).No. 33 of 2015 (S)

PETITIONER:

NIVIN AGED 20 YEARS
S/O.GEORGE, KANNIKATTU NITHIN VIHAR, AROOR PO.
AROOR, ALAPPUZHA DISTRICT

BY ADV. SRI.K.RAMANATHAN

RESPONDENT(S) :

1. THE POLICE CHIEF OF ALAPPUZHA DISTRICT
OFFICE OF POLICE CHIEF ALAPPUZHA-688001

2. CIRCLE INSPECTOR OF POLICE
CHERTHALA, OFFICE OF THE CIRCLE INSPECTOR OF POLICE
CHERTHALA, ALAPPUZHA DISTRICT-688524

3. THE SUB INSPECTOR OF POLICE
CHERTHALA POLICE STATION, CHERTHALA P.O.
ALAPPUHA DISTRICT-688524

4. ASHARAF,
FATHER'S NAME NOT KNOWN TO THE PETITIONER
ASHARAF MANZIL, VAYALAR P.O., NEAR INDIRA JUNCTION
VAYALAR, CHERTHALA, ALAPPUZHA DISTRICT-688 536

5. ANZIL
S/O.ASHARAF, ASHARAF MANZIL, VAYALAR P.O.
NEAR INDIRA JUNCTION, VAYALAR, CHERTHALA
ALAPPUZHA DISTRICT-688536

R1-R3 BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION
R BY GOVERNMENT PLEADER SRI ABDUL KAREEM

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 33 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT P1:THE TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE
THE 3RD RESPONDENT DATED 15.01.2015

EXT P2:THE TRUE COPY OF THE RECEIPT DATED 15.01.2015 ISSUED BY THE
3RD RESPONDENT BEARING 60/P1 E1 AND ITS TRUE TRANSLATION.

RESPONDENT(S) ' EXHIBITS: NIL

//TRUE COPY//

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PS TO JUDGE

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

.....
WP(Cr)No. 33 of 2015
.....

Dated 28th January, 2015

JUDGMENT

V.K.MOHANAN, J

The petitioner, who is a student of Siena College of Professional Studies, Edakochi and doing final semester in BBA Course and aged 20 years, preferred the above writ petition under Article 226 of the Constitution of India alleging that his fiancée namely, Safreena.A, is under the illegal custody of respondents 4 and 5, as they are against the affairs between the petitioner and the said Safreena. Hence it is prayed to issue a writ of habeas corpus directing the respondents 1 to 3 to produce the detenue before this court.

2. While admitting the above writ petition and issuing notice to the respondents 4 and 5, they were directed to produce Miss Safreena.A, daughter of 4th respondent before this court on this date. Thus when the matter is taken today, the said Safreena is produced by the 4th respondent, her father. However, neither the petitioner nor his counsel is present.

3. We interacted with Safreena and she submitted that she knows the petitioner as her class mate and there is no

affair between herself and the petitioner. To a pointed question as to whether she is under illegal custody of anybody, she ascertained and submitted that she is not in the illegal custody of anybody including respondents 4 and 5 who are none other than her father and brother. The above submission is recorded. As we have heard from the mouth of the so called detinue herself that she is not under the illegal custody of anybody, we lack the jurisdiction to proceed with the enquiry under Article 226 of the Constitution of India. As the detinue is not interested in the petitioner and she wants to go along with the 4th respondent, she is at liberty to go along with the 4th respondent. Accordingly, the above writ petition is closed.

V.K.MOHANAN, JUDGE

P.D.RAJAN, JUDGE

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