

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(Crl.).No. 35 of 2015 (S)

PETITIONER:

ROBERT, S/O.SABARIMUTHAN,
AGED 52 YEARS, PLANKALA PUTHEN VEEDU,
ELAMPALANCHERY, KAVALAKULAM, NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENT(S):

1. DEPUTY SUPERINTENDENT OF POLICE,
DISTRICT CRIME BRANCH,
THIRUVANANTHAPURAM - 695 001.
2. SUB INSPECTOR OF POLICE,
NEYYATTINKARA POLICE STATION,
THIRUVANANTHAPURAM - 695 121.
3. SANAL KUMAR, S/O.NELSON,
ELAMPLANCHERY, KAVALAKULAM,
NEYYATTINKARA P.O.,
THIRUVANANTHAPURAM DIST. - 695 121.
4. AMBI, S/O.BENJAMIN, PUNNAVOOR,
NEYYATTINKARA,
THIRUVANANTHAPURAM DIST. - 695 121.

R1-R2 BY GOVERNMENT PLEADER SRI.JOBY JOSEPH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

mbr/

WP(Crl.).No. 35 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE FIR & FIS IN CRIME NO.1370/2014 DATED 15/8/2014
PREPARED BY THE SUB INSPECTOR OF POLICE, NEYYATTINKARA POLICE
STATION.**
- P2: TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE
DY. S.P., NEYYATTINKARA DATED 14/1/2015.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

C.K.ABDUL REHIM & K.RAMAKRISHNAN, JJ.

WP(Crl.) No. 35 of 2015

Dated this the 4th day of June, 2015

JUDGMENT

Abdul Rehim,J.

The petitioner is approaching this court with an allegation that his brother Sri. Alphonse @ Ambi, aged 54 years is missing since 9.7.2014 onwards. It is alleged in the writ petition that respondents 3 and 4 are keeping the petitioner's brother under illegal detention at some unknown place. According to the petitioner, his missing brother was working as a Cleaner in a lorry owned by the 3rd respondent, to which the 4th respondent is the Driver. Allegation is that he was missing after having gone in the lorry along with the 4th respondent on 9.7.2014. Based on the allegation that the missing brother of the petitioner is kept under illegal custody of respondents 3 and 4, this writ petition is filed seeking a writ of habeas corpus compelling production of the corpus of Sri. Alphonse @ Ambi and to set him at liberty.

2. It is mentioned in the writ petition that, with respect to

missing of the brother of the petitioner a case has already been registered as Crime No.1370/2014 under section 57 of the Kerala Police Act at Neyyattinkara Police Station. This court had issued direction to the police authorities to intensify the investigation of that case. The Deputy Superintendent of Police, District Crime Branch, Thiruvananthapuram (Rural) had filed a statement before this court dated 24.2.2015. It is mentioned that initially the case was investigated by the Sub Inspector of Police, Neyyattinkara. But later a special squad was constituted to find out the missing person. In the statement it is mentioned that the investigation so far conducted had revealed that the alleged detenu was missing from Mysore since 12.7.2014 onwards. It was revealed that the alleged detenu is a person having mental illness undergoing medical treatment . He is also an alcoholic addict and had history of becoming violent in the absence of liquor. Investigation revealed that he went to his job as cleaner in the lorry owned by the 3rd respondent on 8.7.2014 and he along with the Driver had reached Manchamcodu in Mysore. Investigation conducted had revealed that some persons at Mysore had identified the missing person

and gave a statement to the effect that, on 12.7.2015 at about 4.00 a.m. the missing person committed some mischief at Hotel Arya Bhavan near a Temple and people crowded there had chased him to the nearest Bus Stop. Thereafter he was not seen. From the investigation conducted so far, the police authorities are of the opinion that the missing person had shown some mental abnormalities when he was at Manchamcodu in Mysore and left company of the Driver. It is stated that constant efforts are being made to trace out the missing person and the investigation is in progress .

3. Considering the facts and circumstance as above, we are of the considered opinion that there is nothing to indicate that the brother of the petitioner is in illegal detention of respondents 3 and 4, as alleged in the writ petition. It is a case of missing of the alleged detenu who is a person having mental illness and is an alcoholic addict. We are of the opinion that the police authorities concerned are pursuing the investigation. Therefore we are not inclined to entertain this writ petition which is filed seeking a writ of habeas corpus .

4. However, we direct the 1st respondent to intensify the

investigation and to make all earnest attempts to trace out the alleged detenu. It is also made clear that the petitioner will be at liberty to seek appropriate remedy if the investigation under progress is not yielding in any positive result, after a reasonable time.

Reserving liberty as mentioned above, this writ petition is hereby disposed of.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

