

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(Crl.).No. 99 of 2015 (S)

PETITIONER(S) :

MRS.THAHIRA C., W/O.JALEEL, RISHAL MAHAL,
VALIYAVALLAPPU, KUNNIL, AGED 32 YEARS
MOGRAL, PUTHUR, KASARAGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S) :

1. THE SUPERINTENDENT OF POLICE, KASARAGOD - 673 121.
2. CIRCLE INSPECTOR OF POLICE, KASARAGOD - 673 121.
3. SUB INSPECTOR F POLICE, VIDYA NAGAR POLICE STATION,
KASARAGOD - 673 121.
4. MR.JALEEL, S/O.LATE MAMMU, RISHAL MAHAL,
VALIYAVALLAPPU, KUNNIL, MOGRAL,
PUTHUR, KASARAGOD - 670692.
5. ABDULLAKUNHI HAJI, AGED 50 YEARS, S/O.MAMMU,
RESIDING AT AL AMAN, KUNNIL,
PUTHUR P.O., KASARAGOD - 670 692.
6. MOIDEENKUNHI, AGED 32 YEARS,
KUNNIL, PUTHUR P.O., KASARAGOD - 670 692.
7. ABDUL AZEEZ, AGED 28 YEARS, ZAKARIYA MANZIL, MOGRAL,
KUNNIL, PUTHUR P.O., KASARAGOD - 670 692.

R BY ADV. SRI. JOBY JOSEPH - GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(Crl.).No. 99 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1: A TRUE COPY OF THE SAID ORDER IN IA 538/2014 IN
OP396/2014 DATED 01/12/2014 OF FAMILY COURT, KASARAGOD.

EXHIBIT P2: A TRUE COPY OF THE COMPLAINT DATED 27/02/2014 FILED BY
THE PETITIONER BEFORE THE 1ST TO 3RD RESPONDENTRS.

RESPONDENT(S) ' EXHIBITS

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NIL

TRUE COPY

PA TO JUDGE.

acd

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

W.P.(Crl) No. 99 of 2015

Dated this the 6th day of March, 2015

JUDGMENT

V.K.Mohanana,J.

The grievance of the petitioner, who is the wife of the 4th respondent and the mother of the children namely, Ahammed Rishal Roshan, aged 14 years and Muhammed Shaimal Rinaz, aged 8 years that though the Family Court, Kasaragod issued Ext.P1 order to take the children on every Saturday after school time to the house of the petitioner, respondents 4 to 7 have not complied with the same and she is not in a position at least to visit the children. Therefore, it is prayed to issue a writ of habeas corpus or any other appropriate writ or direction or order to respondents 1 to 3 to search for production of body of the children of the

petitioner before this Court from the illegal custody of respondents 4 to 7 and to set them at liberty.

2. Heard Sri. T.G. Rajendran, the learned counsel for the petitioner.

3. It is an admitted fact that the petitioner herein had already approached the Family Court, Kasaragod by filing O.P.No.396/2014 for custody of the above named children of the petitioner and I.A.No.538/2014 in O.P.No. 396/2014 for interim custody of the children. The Court below passed Ext.P1 order by which the petitioner is authorised to take the children from the school to her house on every Saturday after school time and she is also directed to produce the children in the Madrassa on Sunday morning and take the children from the Madrassa to the house of the petitioner and she was also directed that she shall take the children to the Madrassa on

Monday morning on all the days every week till the disposal of the original petition. Thus, it can be seen that the Family Court, Kasaragod ceased of the matter and the children are now with the respondents 4 to 7 on the basis of a valid order passed by the Court below and such custody cannot be treated as an illegal one. However, if the respondents 4 to 7 failed to comply with the direction contained in Ext.P1 or the petitioner was prevented from getting interim custody of the children, it is for her to bring those facts to the notice of the Family Court, Kasaragod and seek appropriate orders. In the present case, the petitioner has no case that she has adopted such a course. We are sure that if there is any failure on respondents 4 to 7 in complying with Ext.P1 order and in case brings to these facts to the notice of the Court below, the Court will take appropriate action on the due

execution of Ext.P1 order to save the interest of the petitioner.

In the result, this writ petition is disposed of relegating the petitioner to approach the Family Court, Kasaragod and to bring those facts, if the same are correct, compared with the failure on the part of the respondents 1 to 7 in complying with Ext.P1 order and to seek appropriate relief from the said Court. We are sure that in case the petitioner approaches the Court below highlighting the grievance projected before this Court, the Court below will take appropriate steps to see that Ext.P1 is executed or coercive steps will be taken to implement Ext.P1 order.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

