

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P. JOSEPH

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

**WP(Cr.).No. 105 of 2015 (S)**

**PETITIONER:**

NAZAR, AGED 52 YEARS  
S/O. MAITHEENKUNJU, MARUTHAVANA VEETIL  
THEKKU KOCHUMURI, KRISHNAPURAM VILLAGE  
ALAPPUZHA DISTRICT, PIN-690 526.

BY ADVS. SRI.K.SHAJ  
SRI.SAJJU.S  
SRI.RENJIT GEORGE  
SMT.ANJU MOHAN  
SRI.S.K.SUJITH KRISHNA  
SRI.S.VISHNU (ARIKKATTIL)

**RESPONDENTS:**

1. STATE OF KERALA  
REPRESENTED BY THE SECRETARY, DEPARTMENT OF HOME  
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.
2. THE DIRECTOR GENERAL OF POLICE  
KERALA, THIRUVANANTHAPURAM-695 001.
3. THE DISTRICT POLICE CHIEF  
ALAPPUZHA DISTRICT-688 001.
4. CIRCLE INSPECTOR OF POLICE  
KAYAMKULAM, ALAPPUZHA DISTRICT-690 502.
5. SUB INSPECTOR OF POLICE  
KAYAMKULAM POLICE STATION  
ALAPPUZHA DISTRICT-690 502.
6. JAMSHITH KHAN, AGED ABOUT 35 YEARS,  
S/O.ANGUR, PRESENTLY RESIDING IN PUNNAKKUZHAYIL  
THEKKU KOCHUMURI, OCHIRA P.O.  
ALAPPUZHA DISTRICT-690 526.

R1 TO R5 BY ADDL.DIRECTOR GENERAL OF PROSECUTION  
SRI.TOM JOSE PADINJAREKARA  
GOVERNMENT PLEADER SRI.JOBY JOSEPH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON  
08.04.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **APPENDIX**

### **PETITIONER'S EXHIBITS:**

- EXT.P1      TRUE COPY OF S.S.L.C.CERTIFICATE OF NAMITHA NAZAR  
              @ RANI.
- EXT.P2      TRUE COPY OF FIR IN CRIME NO.531/2015 OF  
              KAYAMKULAM POLICE STATION.

### **RESPONDENTS' EXHIBITS:** NIL

//TRUE COPY//

AHZ/

**K.T.SANKARAN &  
BABU MATHEW P. JOSEPH, JJ.**

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**Dated this the 8<sup>th</sup> day of April, 2015**

**JUDGMENT**

**K.T.Sankaran, J.**

The petitioner alleged that his minor daughter, Namitha Nazar, was missing since 25.2.2015. It is also stated that, on enquiries, it was learnt that the sixth respondent, a Bengali Immigrant, had abducted the minor girl.

2. When the Writ Petition came up for hearing on 30.3.2015, another Division Bench of this Court passed the following order:

“The petitioner, who is the father of a minor girl Namitha Nazar, has filed this writ petition for a writ of habeas corpus commanding the respondents to produce the body of his daughter in this Court and to set her at liberty forthwith. The petitioner has averred that his daughter, who is a minor (Date of Birth is 30.1.1998), has not returned home after attending school on 25.2.2015 and that in spite of earnest efforts her whereabouts could not be traced out. He has also stated

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that based on a complaint filed by him, Crime No.531 of 2015 of Kayamkulam Police Station was registered. He further averred that after Ext.P2 FIR was registered he came to know that his daughter is in the illegal custody of the sixth respondent, a Bengali immigrant and a married man with two children.

2. When the writ petition came up for admission on 11.3.2015, the writ petition was admitted and notice ordered to sixth respondent by special messenger. This Court also directed the sixth respondent to produce the body of the detainee before this Court on 18.3.2015. Pursuant to that order, a process server was deputed from this Court to serve notice on the sixth respondent. But notice was not served on him for the reason that he was not in station.

3. When the writ petition came up on 18.3.2015, the learned Government Pleader submitted that the detainee has not been traced out and that the sixth respondent who hails from West Bengal has taken the detainee with him. The learned Government Pleader also sought ten days time to produce the detainee before this Court. When the writ petition was called on for hearing today, the Sub Inspector of Police, Kayamkulam, produced the detainee in this Court. When we interacted with the detainee, she stated that she would like to go with her father who is also present in Court. In such circumstances, as the detainee, a minor girl has not so far

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been produced before the Judicial Magistrate of First Class, Kayamkulam in connection Crime No.531 of 2015, we are of the opinion that the Sub Inspector of Police, Kayamkulam should forthwith produce the detenue before the Judicial Magistrate of First Class, Kayamkulam who shall after recording her statement release her to the custody of the petitioner. Having regard to the fact that a minor girl was taken away by the sixth respondent, we are of the opinion that the District Police Chief, Alappuzha should file a statement as regards the investigation so far undertaken in Crime No.531 of 2015 of Kayamkulam Police Station. A statement as directed above shall be filed within one week from today.

Call on 8.4.2015. Registry to communicate a copy of this order by fax to the Court of the Judicial Magistrate of First Class, Kayamkulam."

3. The learned Government Pleader submitted that a statement has been filed indicating that the girl was produced before the Judicial Magistrate of the First Class, Kayamkulam and she was released with her parents. It is also stated that the girl was subjected to medical examination and on the basis of the report of the medical examination, offences under Sections 363, 366, 376 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from

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Sexual Offences Act were added as against the sixth respondent. It is submitted that the sixth respondent has not been arrested so far as he is residing in a remote village in West Bengal. The statement is recorded.

The Writ Petition (Criminal) is, accordingly, closed.

**(K.T.SANKARAN)**  
**Judge**

**(BABU MATHEW P. JOSEPH)**  
**Judge**

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