

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WP(Crl.).No. 123 of 2015 (S)

PETITIONER:

MICHAEL ANTONY,
AGED 30 YEARS, S/O.DEVASAHAYAM, 450, JYOTHI THERUVU
VETTANEER MADOM, NAGARKOVIL - 3, KANYAKUMARI DISTRICT.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS:

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1. THE CIRCLE INSPECTOR OF POLICE
KUNDARA POLICE STATION,
KOLLAM DISTRICT -691 001.
 2. THE SUB INSPECTOR OF POLICE
KUNDARA POLICE STATION,
KOLLAM DISTRICT -691 001.
 3. SUJATHA, AGED 45 YEARS
D/O.KUNJUPILLAI, KAVUMKARAYIL, PERUMPUZHA
ELAMBALLOOR VILLAGE, KOLLAM DISTRICT - 691 001.
 4. APPU, AGED 20 YEARS
S/O.VISWANATHAN, KAVUMKARAYIL, PERUMPUZHA
ELAMBALLOOR VILLAGE, KOLLAM DISTRICT -691 001.
 5. SUDHA, D/O.KUNJUPILLAI,
BOS COLONY, NAINAR COLONY
SIVAKASI, PIN - 626123, TAMIL NADU.
 - *6. THE DIRECTOR GENERAL OF POLICE,
KERALA, THIRUVANANANTHAPURAM.
 - *7. THE COMMISSIONER OF POLICE/
DISTRICT POLICE CHIEF, KOLLAM,

[R6 & R7 ARE SUO MOTU IMPEADED AS ADDITIONAL RESPONDENTS AS
PER ORDER DATED 17-04-2015 IN WP(CRL) 123/2015.]

R1 & 2 BY GOVT. PLEADER SRI. P.S.ABDUL KAREEM
R3 -R5 BY ADV. SRI.K.V.ANIL KUMAR

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 08-06-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: A TRUE COPY OF THE BIRTH CERTIFICATE OF THE PETITIONER'S CHILD M. ALLAN DEV.**
- EXT.P-2: A PHOTOGRAPH SHOWING THE PETITIONER PRIYA @ SUMA AND THE TWO CHILDREN.**
- EXT.P-3: A TRUE COPY OF THE ADHAR CARD OF PRIYA @ SUMA.**
- EXT.P-4: A TRUE COPY OF THE REPRESENTATION DATED 17.3.2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXT.P-5: A TRUE COPY OF THE REPRESENTATION DATED 17.3.2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

**C.K. ABDUL REHIM, J.
&
K. RAMAKRISHNAN, J.**

W.P (Crl.) No. 123 OF 2015

DATED THIS THE 8th DAY OF JUNE, 2015

J U D G M E N T

Abdul Rehim, J:

The petitioner herein is a resident of Nagarcoil in Kanyakumari district in Tamil Nadu State. The petitioner was having a 'live-in' relationship with one Smt. Priya @ Suma for about 7 years and a child was born out of the said relationship by name, M. Allan Dev. Allegation in this writ petition is that Smt. Priya @ Suma and the child-M. Allan Dev are under illegal detention of respondents 3 to 5, who are close relatives of Smt. Priya @ Suma. Respondents 3 & 5 are sisters of Smt. Priya @ Suma and the 4th respondent is son of the 3rd respondent. On the basis that the detainees are under illegal confinement, this petition is filed seeking a writ of Habeas Corpus to direct their production and set them at liberty.

2. Pursuant to an order passed by this court on 31-03-2015, the respondents 3 & 5 have entered appearance through counsel and submitted that the alleged

detenues are not in their custody. Learned Government Pleader appearing on behalf of respondents 1 & 2 submitted that the alleged detenues could not be traced out and sought more time to make further enquiries. On 17-04-2015 this court impleaded the additional respondents 6 & 7, suo motu and issued specific directions to respondents 1, 2, 6 & 7 to trace out and to produce the alleged detenues. Further on 22-05-2015 this court issued specific direction to the 3rd respondent to conduct a thorough enquiry through any responsible police officer to trace out whereabouts of the alleged detenues and also to make enquiries regarding availability of them in the custody of respondent No.5 who is staying in Tamil Nadu.

3. Today when the matter is taken up, the 7th respondent had filed a report to the effect that the alleged detenues were missing from Nagarcoil in Tamil Nadu State since 12-04-2015 onwards. It is mentioned that Smt. Priya @ Suma is the younger sister of the 3rd respondent. She was cohabiting with one Sri. Anilkumar since 2004 onwards and two children were born out of that relationship. While

residing so she eloped with one Sri. Manoj leaving Sri. Anilkumar and the two children were born. Thereafter Sri. Anilkumar committed suicide and later Sri. Manoj died in an accident. Thereafter she begin to cohabit with the petitioner and another boy was born in that relationship. It is stated that Smt. Priya @ Suma was missing from Nagarcoil during 2013. But she was traced out in a woman missing case registered by Nagarcoil police and produced her before court there, in December 2013. Eventhough she was sent along with the petitioner, again she was missing. It is specifically mentioned that the petitioner had lodged a complaint before Sivakasi Police Station against missing of the alleged detenues. The report would indicate that all possible enquiries were made by respondents 1, 2, 6 & 7 and it was revealed that alleged detenues are not any illegal confinement of respondents 3 & 4 who are residing within the jurisdiction of the State of Kerala. It is further mentioned that the petitioner had already submitted a complaint before Sivakasi Police Station wherein the 5th respondent is residing.

4. Under the above mentioned circumstances we are convinced that the alleged detenues Smt. Priya @ Suma and M. Allan Dev are not in any illegal confinement as alleged, within the State of Kerala. Therefore we are of the opinion that the above petition filed seeking for a writ of Habeas Corpus cannot be entertained. However, we make it clear that the petitioner will be at liberty to approach the appropriate authority seeking investigation with respect to missing of the alleged detenues and also to approach any appropriate forum if it is found that the investigation conducted in this regard is not yielding any positive result within a reasonable time.

The writ petition is disposed of with the above observations.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

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True copy

P.A. to Judge