

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 25TH DAY OF MAY 2015/4TH JYASHTA, 1937

WP(Crl.).No. 134 of 2015 (S)

PETITIONER(S) :

**ASHOKAN N.K., AGED 40 YEARS,
S/O.KUNJAPPAN, NADAKKAL HOUSE, PAIPPADU VILLAGE,
CHANGANASSERRY, KOTTAYAM - 686 548.**

**BY ADVS.SRI.RAAJESH S.SUBRAHMANIAN
SRI.V.R.RAJESH**

RESPONDENT(S) :

- 1. THE SUPERINTENDENT OF POLICE (RURAL),
KOTTARAKKARA, KOLLAM - 691 506.**
- 2. CIRCLE INSPECTOR OF POLICE,
ALAPPUZHA - 688 001.**
- 3. THE SUB INSPECTOR OF POLICE,
POOYAPPALLY, KOTTARAKKARA, KOLLAM - 691 506.**
- 4. SADASIVAN,
CHARUVILA HOUSE, CHENKALAM P.O., KOTTARAKKARA,
POOYAPPALLY, KOLLAM - 691 506.**
- 5. VALSALA,
W/O.SADASIVAN, CHARAVILA HOUSE, CHENKALAM P.O.,
KOTTARAKKARA, POOYAPALLY, KOLLAM - 691 506.**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.JOBY JOSEPH
R4 & R5 BY ADV. SRI.D.KISHORE**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(Crl.).No. 134 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE JUDGMENT IN MAT APPEAL
(G& W) NO. 554 OF 2014 DATED 10/11/2014.**
- EXT.P2: TRUE COPY OF THE PROCEEDINGS IN E.P.NO. 25 OF 2014 BEFORE
THE FAMILY COURT, KOTTAYAM.**
- EXT.P3: TRUE COPY OF THE COMPLAINANT DATED 25/02/2015 MADE TO
THE 3RD RESPONDENT.**
- EXT.P4: TRUE COPY OF THE COMPLAINT DATED 28/02/2015 PREFERRED
TO THE 1ST RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

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

WP(CRL).NO. 134 of 2015

Dated this the 25th day of May, 2015

JUDGMENT

Abdul Rehim,J.

The petitioner seeks a writ of habeas corpus to cause production of his minor child viz. Ashly aged 5 years, who is allegedly detained by respondents 4 and 5 . It is pointed out that the petitioner's wife, who is the mother of the minor child died on 17.3.2011. r Respondents 4 and 5 had taken the child from custody of the petitioner after death of the petitioner's wife. The petitioner preferred OP(G&W) 822/2011 before the Family Court, Kottayam in which the petitioner was appointed as guardian, through order dt. 23.5.2013. Respondents 4 and 5 were directed to hand over custody of the child on 1.5.2014. An appeal filed against the said order by the respondents before this court was disposed of by directing respondents 4 and 5 to produce the minor child before the Family Court on 20.11.2014. The Family Court was directed to dispose of EP. within a period of 45 days.

Warrant issued by the Family Court against respondents 4 and 5 was directed to be kept in abeyance till 20.11.2014.

2. The respondents 4 and 5 have failed to produce the child before the Family Court as directed in Ext.P1 judgment of this court. Hence by virtue of Ext.P2 order the Family Court issued search warrant through the District Police Chief, Kottayam directing to cause production of the minor child . Despite such a direction, respondents 4 and 5 have illegally detained the minor child at some unknown place, is the allegation. Hence direction is sought for to cause production of the minor child.

3. Notice issued from this court to respondents 4 and 5 could not be served as they were not available in station. Subsequently this court through order dated 24.4.2015 directed the respondents 1 to 3 to take steps to execute the warrant issued and to trace out the child and to cause production. Thereafter on 20.5.2015 respondents 4 and 5 appeared along with the alleged detenu child before this court. It was conceded before this court that they will produce the child before the Family Court where the execution petition is pending. Hence we have issued direction to respondents 4 and 5 to produce the

child before the Family Court, Kottayam at Ettumanoor on 22.5.2015. The Family Court was directed to pass proper orders in accordance with law . Today when the case is taken up the counsel appearing on both sides conceded that the minor child Ashly was produced before the Family Court as directed by this court on 22.5.2015. It is further submitted that the Family Court has adjourned the case to today for considering issuance of further orders.

4. Since the child has already been produced before the Family Court and the Family Court in seizin of the matter with respect to issuing appropriate orders regarding custody of the child, we do not propose to pursue further this writ petition which is filed seeking a writ of habeas corpus.

5. Under the above mentioned circumstances this writ petition is closed by granting liberty to the parties to pursue the matter before the Family Court.

C.K.ABDUL REHIM, JUDGE

pmn/

K.RAMAKRISHNAN, JUDGE

