

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(Crl.).No. 138 of 2015 (S)

PETITIONER:

MOHANDAS, AGED 54 YEARS,
S/O. SREEDHARAN,
KULAMUKKU, PARUTHUR P.O.,
PALLIPURAM VIA, PATTAMBI,
PALAKKAD DISTRICT.

BY ADV. SRI.C.K.MOHANAN

RESPONDENTS:

1. THE SUB INSPECTOR OF POLICE,
THRITHALA POLICE STATION,
PALAKKAD DISTRICT-679 001.
2. THE CIRCLE INSPECTOR OF POLICE,
PATTAMBI, PALAKKAD DISTRICT-679 123.
3. THE SUPERINTENDENT OF POLICE,
PALAKKAD DISTRICT-679 001.
4. DIRECTOR GENERAL OF POLIKCE (LAW & ORDER),
POLICE HEAD QUARTERS, TRIVANDRUM-695 001.
5. KADHER, S/O. MOIDU, AGED 40 YEARS,
PANNIKKAVIL HOUSE, KULAMUKKU, PALLIPADI,
PARUTHUR (PO), PALLIPURAM VIA. PATTAMBI,
PALAKKAD DISTRICT-679 116.

6. THERBIYATHUL ISLAM SABHA,
MUGHADAR,
CALICUT-673 003,
REPRESENTED BY ITS
MANAGER ALI KOYA

R1-R4 BY SENIOR GOVERNMENT PLEADER
SMT. KOCHUMOL KODUVATH.

R5 BY ADV. SRI.S.SHANAVAS
R5 BY ADV. SRI.SALIM V.S.
R5 BY ADV. SRI.H.NUJUMUDEEN
R6 BY ADV. SRI.P.K.IBRAHIM
R6 BY ADV. SMT.K.P.AMBIKA
R6 BY ADV. SMT.A.A.SHIBI

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY
HEARD ON 07-04-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.C. (CRL) .NO.138 OF 2015

APPENDIX

PETITIONERS' S EXHIBITS:

NIL

RESPONDENTS' EXHIBITS:

EXT.R6(a) - TRUE COPY OF THE GOVERNMENT ORDER G.O. (Ms) NO.75/2004/SC/STDD DATED 30/10/2004 ISSUED IN FAVOUR OF THE 6TH RESPONDENT.

EXT.R6(b) - TRUE COPY OF THE NOTARIZED AFFIDAVIT SUBMITTED BY FATHIMA ANHA (RESHMA K.T.) SEEKING ADMISSING IN THE 6TH RESPONDENT INSTITUTION DATED 28/11/2004.

EXT.R6(c) - TRUE COPY OF THE SUBMISSION OF THE PETITIONER COUNTER SIGNED BY HIS SON-IN-LAW MR. PRAKASHAN DATED 1/12/2014.

EXT.R6(d) - TRUE COPY OF THE REQUEST OF FATHIMA SEEKING PERMISSION TO SEE HER MOTHER.

EXT.R6(e) - TRUE PHOTO COPY OF THE CERTIFICATE ISSUED BY THE 6TH RESPONDENT TO FATHIMA ANHA DATED 18/3/2015.

//true copy//

P.S. to Judge

**THOTTATHIL B. RADHAKRISHNAN &
K. HARILAL, JJ.**

W.P.(Crl) No.138 of 2015-S

Dated this the 7th day of April, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

This is an application seeking issuance of a writ in the nature of habeas corpus as regards the petitioner's daughter, 22 year old Reshma. K.T. The substance of the allegation in the writ petition is that she came to be under the influence of the 5th respondent, in whose shop she was working, and, as enticed by him, she is attempted to be brought into the fold of Islam to enable the 5th respondent to marry her, though he has already a wife and children. The petitioner asserts that he is a strong Hindu and that the 6th respondent, an institution, where Reshma was allegedly housed, is exerting undue influence and control over her.

2. Following notice, Reshma is present. She says that

she was converted to Islam and has accepted 'Fathima Anha' as her name. She has come with an officer working with the 6th respondent. The 5th respondent is represented through counsel, when the case is taken up today after lunch recess. The 6th respondent has filed a counter affidavit with documents. We also heard the learned senior Government Pleader, on the basis of instructions.

3. We interacted with the alleged detainee. She is well oriented, apparently fairly educated and has the capability to comprehend all matters affecting her life. She says that she is the youngest among four daughters of the petitioner and desired to go for higher studies, after completing her Plus Two; however that, the family could not provide support. She says that it was accordingly she went to work in the ready made garment shop of the 5th respondent. She asserts that she has no illicit or other relationship with the 5th respondent, except of having been a servant in his shop and that she is familiar even with the wife and children of the 5th respondent. She has told us that it is on her volition that she desired and moved to be under the tutelage of the 6th respondent institution became familiar with the principles of Islam and other religions

through her wide reading with the assistance of Public Library systems including the Panchayat Library in the locality. We see that she has good language skills. We are unable to notice any element of artificiality in whatever she has told us. She says that she aspired to join for correspondence course; but could not get the necessary study materials for lack of funds. She also wanted to go for a course in fashion technology. On the whole, we see that she is even now well oriented, pleasant and capable of taking decisions regarding herself. We put to her that her parents would like to interact with her. She said that she is prepared to do so; however that, she is not willing to go to the residence of the parents, out of some bitter experiences she had, after she joined the 6th respondent.

4. In the light of the concerned of the alleged detainee, she is now, interacting with her parents and her other near relatives of the parental home, this we see, even through the window of this Court room, since the whole group of her family is just outside the court. We are satisfied that the alleged detainee has interacted with her parents sufficiently.

5. With the aforesaid, we record that the alleged

detenue is not under any illegal detention and that she is taking her decisions on her free will. She is, thus, at liberty to go on her own to any place of her choice, including the 6th respondent's establishment.

In the light of what is stated above, we see that no further orders are called for in this writ petition. Hence this writ petition is dismissed.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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//true copy//

P.S. to Judge