

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 21ST DAY OF APRIL 2015/1ST VAISAKHA, 1937

WP(Crl.).No. 152 of 2015 (S)

PETITIONER(S):

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1. SUNIL ANTONY
S/O.ANTONY, AGED 40 YEARS
BATHEL BHAVAN,
ERAVIPURAM P.O., KOLLAM.
 2. JANET ANTONY,
D/O.ANTONY, AGED 53 YEARS
BATHEL BHAVAN,
ERAVIPURAM P.O., KOLLAM.

BY ADVS.SRI.PRATHEESH.P
SMT.S.SEETHA
SMT.NIMA JACOB

RESPONDENT(S):

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1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHAKKADU,
THIRUVANANTHAPURAM-695014
 2. THE CITY POLICE CHIEF (COMMISSIONER)
KOLLAM CITY-691001
 3. THE ASST.POLICE COMMISSIONER,
KOLLAM CITY-691001
 4. SUB INSPECTOR OF POLICE, ERAVIPURAM POLICE STATION
ERAVIPURAM P.O., KOLLAM 691001
 5. OMANA,
AGED 43 YEARS
ESTHER BHAVAN, MELACHUVILA, KUNNATHUKAVU
ERAVIPURAM P.O., KOLLAM 691001
 6. SAIMON
AGED 20 YEARS
ESTHER BHAVAN, MELACHUVILA, KUNNATHUKAVU
ERAVIPURAM P.O., KOLLAM 691001

R1 -R4 BY GOVERNMENT PLEADER SMT.KOCHUMOL KODUVATH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 21-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 152 of 2015

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE COMPLAINT FILED BEFORE THE 3RD RESPONDENT
DTD 1.4.2015

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

VPS

PS TO JUDGE

P.N.RAVINDRAN & P.D.RAJAN, JJ.

W.P.(Crl.) No.152 of 2015

Dated this the 21st day of April, 2015

J U D G M E N T

P.N.Ravindran, J.

The petitioners, herein who are the brother and sister of Nixon Antony, have filed this writ petition for a writ of habeas corpus commanding respondents 1 to 4 to produce the body of Nixon Antony in this Court and to set him at liberty forthwith. They have also alleged that respondents 5 and 6, who are the wife and son of Nixon Antony, have illegally kept him under their custody and deprived him of his rights and freedom.

2. When the writ petition came up for hearing today, the learned Government Pleader appearing for the official respondents submitted that the Police have after investigation traced out and produced Nixon Antony before the Court of the Judicial Magistrate of First Class, Kollam and that he was let off after recording his statement. The learned Government Pleader also submitted that Nixon Antony is present in this Court. We accordingly interacted with Nixon Antony. He submitted that he was running a studio at Eravipuram, that for want of his business he closed down the studio

and left for Mumbai for employment and that was the reason why the instant writ petition was filed. He submitted that he is a free agent and he is not in the illegal custody of respondents 5 and 6. He also submitted that he is residing happily with respondents 5 and 6 and that there are no disputes among them. He also pointed out that his wife and son, who are respondents 5 and 6, are also present in court. We interacted with them and they also stated that there is no dispute in their family and that they are living happily. The sixth respondent also stated that he was manhandled and injured by the first petitioner and that a criminal case in that regard is pending. In the light of the fact that Nixon Antony is not in the illegal custody of respondents 5 and 6 and he is a free agent, we are of the opinion that the writ petition is misconceived and without any merit. It is evident from the facts disclosed by the detenu and respondents 5 and 6 that this writ petition is an abuse of the process of the court. The petitioners should therefore in our opinion be mulcted with costs, which we quantify and fix at Rs.25,000/- which shall be paid directly to respondents 5 and 6 and a memo to that effect filed in this Court within two weeks from today. In the event of failure to pay the sum of Rs.25,000/- and to file a memo in this Court within the aforesaid period, it will be open to respondents 5 and 6 to recover the said amount by recourse to the

provisions contained in the Kerala Revenue Recovery Act, 1968, and the District Collector, Kollam shall in the event of respondents 5 and 6 moving an appropriate application before him take steps under the Kerala Revenue recovery Act, 1968, to recover the said amount from the petitioners and their assets. The revenue recovery proceedings if any thus initiated shall be completed within three months from the date on which a representation in that regard is received from respondents 5 and 6.

The writ petition is dismissed with costs as above.

**P.N.RAVINDRAN,
(JUDGE)**

**P.D.RAJAN,
(JUDGE)**

vps

