

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

WP(Crl.).No. 175 of 2015 (S)

PETITIONER:

SIMI JOHN AGED 34 YEARS
D/O.JOHN, CHAKKALAKUNNEL HOUSE
CHANGALEERI P.OMANNARKKAD TALUK, PALAKKAD DISTRICT
PIN - 678 762.

BY ADV. SMT.J.SHEEBA MARIAM

RESPONDENTS:

1. SUPERINTENDENT OF POLICE
OFFICE OF SUPERINTENDENT OF POLICE
ERNAKULAM DISTRICT - 683 101.
2. SUB INSPECTOR OF POLICE
POTHANIKKAD POLICE STATION - 686 671.
3. BENNY PHILIP, AGED 36 YEARS
S/O.PHILIP, KANDOTH HOUSE, VARAPETTY
ANCHALPETTY, ELANELLOOR POST, MUVATTUPUZHA
ERNAKULAMDISTRICT, PIN - 686 673.

BY SRI.P.P.PADMA

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
28-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 175 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P-1: TRUE COPY OF COMPLAINT DTD 22.4.2015 SUBMITTED BEFORE THE
SUB INSPECTOR OF POLICE, POTHANIKKAD POLICE STATION.

RESPONDENT(S) ' EXHIBITS

NIL

(SD/-) TRUE

PA TO JUDGE

**A.M.SHAFIQUE, J &
P.V.ASHA, J**

*** * * * ***

W.P.(CrI) No.175 of 2015

Dated this the 28th day of April 2015

J U D G M E N T

Shaffique,J

This writ petition is filed seeking for a writ of habeas corpus to produce Kevin Benny and Kenz Benny, minor children of the petitioner. It is submitted that the petitioner is the wife of the third respondent and detenues are her children. A matrimonial dispute is pending before the Family Court, Ottappalam as O.P.No.789/2013 which was transferred to the Family Court, Ernakulam and renumbered as O.P.No.2009/2014. According to the petitioner, she came back to her native place to see her children. Family Court, Ernakulam issued an order in I.A.No.979/2015 directing the 3rd respondent to produce the children on 01/05/2015. The 3rd respondent did not produce the children and filed O.P (FC) No.135/2015 before this Court where the matter has been stayed. Under such circumstances, this writ petition

has been filed.

2. In so far as the issue regarding custody of the children is pending before the Family Court, Ernakulam in O.P.No.2009/2014 and this Court, remedy of the petitioner is to approach the appropriate court and seek necessary direction. This Court cannot interfere in a writ of habeas corpus and direct production of the children when apparently the children are in the custody of the 3rd respondent, their father.

The writ petition is dismissed.

(A.M.SHAFIQUE, JUDGE)

(P.V.ASHA, JUDGE)

jsr

