

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(Crl.).No. 190 of 2015 (S)

PETITIONER(S):

**NAVAJEEVAN SPORTS CLUB
(REG. NO ER 805/13), ELANJI, ERNAKULAM - 686 665,
REPRESENTED BY ITS PRESIDENT JOY PETER,
AGED 52 YEARS, CHERIYANAD, ELANJI.**

BY ADV. SRI.SHAJI JOSEPH

RESPONDENT(S):

- 1. DISTRICT POLICE CHIEF, KOTTAYAM.**
- 2. THE SUB INSPECTOR OF POLICE,
KADUTHURUTHY POLICE STATION,
KOTTAYAM DISTRICT, PIN - 686 001.**
- 3. THE SUB INSPECTOR OF POLICE,
KOTHATTUKULAM POLICE STATION,
ERNAKULAM DISTRICT, PIN - 686 662.**
- 4. SEBASTIAN,
MADATHIKKAD HOUSE, NJEEZHOO VILLAGE,
NJEEZHOO PANCHAYAT, KOTTAYAM DISTRICT, PIN - 686 001.**
- 5. THE DIRECTOR,
SANTHULA TRUST HOSPITAL, VADAKARA, KOTHATTUKULAM,
ERNAKULAM DISTRICT, PIN - 686 665.**

**R1-R3 BY GOVERNMENT PLEADER SMT.KOCHUMOL KADAVATH
R5 BY ADVS. SRI.SABU FRANCIS
SRI.JOHN V. VARGHESE**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(Crl.).No. 190 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT P1: TRUE COPY OF THE REPRESENTATION DATED 14/4/2015 SUBMITTED
BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

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

WP(CrI).NO. 190 of 2015

Dated this the 26th day of May, 2015

JUDGMENT

Abdul Rehim,J.

The above case is filed seeking a writ of habeas corpus directing production of one Sri. Joshi Sebastian, aged 54 years, who is the son of the 4th respondent. The petitioner herein is M/s. Navajeevan Sports Club represented by its President (hereinafter referred as 'the club' for short) The club claims that it is a social welfare organisation. It is stated that the alleged detenu Sri. Joshi Sebastian is an active member of the club and he is living separated from his wife and children since the last 15 years. Allegation is that the 4th respondent who is father of the alleged detenu had some difference of opinion with him in certain financial matters. This writ petition is filed stating that the sister of the alleged detenu had informed the members of the club that, he was forcibly abducted by persons deputed by the 5th respondent with the aid of the 4th respondent. The 5th

respondent is the Director of a hospital at Vadakara, Koothattukulam. Averments are to the effect that there were complaints about the 5th respondent's hospital with respect to admitting of mentally and physically healthy persons forcibly at the instance of relatives and interested persons, with ulterior motives. It is alleged that the detenu was admitted in the 5th respondent's hospital at the instance of the 4th respondent with some illicit motives. Therefore this writ petition is filed on the allegation that the alleged detenu Sri. Joshi Sebastian is in illegal detention of the 5th respondent.

2. On 15.5.2015 the alleged detenu was brought before this court. On behalf of the 5th respondent it was submitted that the detenu is under treatment at the 5th respondent's hospital. Therefore this court permitted the detenu to be taken back to the hospital for continuing treatment. The matter was posted thereafter on today.

3. In the counter affidavit of the 5th respondent it is mentioned that Sri. Joshi Sebastian was brought to the 5th respondent's hospital by his father, the 4th respondent herein and some of his relatives, on 16.3.2015. At the time when he was

brought to the hospital he was in a fully intoxicated state and he was in a violent mood, exhibiting a tendency to attack his father. He was a person having 'alcoholic dependency syndrome' with dis-social personality traits. It is stated that due to treatment in the hospital his condition had improved much and he was co-operating with the counselling done as part of the treatment. It is further mentioned that the alleged detenu is co-operating with the treatment even after his production before this court on 15.5.2015 and his condition has further improved. It is mentioned that he can be discharged on 30.5.2015 subject to follow up treatments including counselling at an interval of 15 days. It is emphatically denied that the 5th respondent had illegally detained the alleged detenu. It is also clarified that the 5th respondent's hospital is having only professional interest in the matter of the alleged detenu.

4. Learned Government Pleader appearing on behalf of respondents 1 to 3 had produced medical reports and certificate relating to the treatment of the alleged detenu. It would indicate that the patient was admitted in the hospital for de-addiction of 'alcoholic dependency syndrome' with dis-social personality traits.

It would also indicate that the course of treatment in the hospital was uneventful and he had co-operated with the treatment. It is indicated in the discharge summary issued on 25.5.2015 about considerable betterment of the alleged detenu.

5. The alleged detenu Sri. Joshi Sebastian as well as the 4th respondent are personally present before this court on today. We interacted with the alleged detenu. He stated that he was taken to the hospital for treatment by the 4th respondent and he has no objection in continuing the treatment at the 5th respondent's hospital, or for continuing follow up treatment as out patient and to attend the counselling at the intervals of 15 days.

6. Under the above mentioned circumstances we are of the considered opinion that the club had filed this writ petition without any bonafides alleging totally baseless allegation. The allegation was that the sister of the detenu had informed that he was forcibly abducted. But it is pertinent to note that the sister or any other relative of the detenu has not come forward with any such allegation directly to this court. The writ petition filed by the Club, making frivolous allegations against respondents 4 and 5, cannot be considered in any manner as a bonafide attempt

to secure liberty of the alleged detenu. We do not find anything to presume that the alleged detenu has been illegally abducted or detained in the 5th respondent's hospital against his free will. As such we consider this proceedings as a sheer abuse of the process of this court. However we refrain from imposing any cost while dismissing this writ petition, only because the petitioner is stated to be a social organisation.

Hence the above writ petition is hereby dismissed.

C.K.ABDUL REHIM, JUDGE

K.RAMAKRISHNAN, JUDGE

Pmn/

