

**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 JYAISHTA, 1937**

**WP(Crl.).No. 212 of 2015 (S)**  
-----

**PETITIONER(S):**  
-----

**SHEEJA SREEDHAR AGED 42 YEARS  
D/O.SREEDHARAN NAIR, VELLARA HOUSE, PADUVA P.O  
KOTTAYAM**

**BY ADV. SRI.A.K.HARIDAS**

**RESPONDENT(S):**  
-----

- 1. THE SUB INSPECTOR OF POLICE  
AYARKUNNAM POLICE STATION, KOTTAYAM 686 564**
  - 2. JAYAKUMAR  
KANNUR HOUSE, PAZHUKKARA P.O, CHALAKUDY 680 307**
- R 1 BY GOVERNMENT PLEADER JOBY JOSEPH**

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(Crl.).No. 212 of 2015 (S)**  
-----

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

**EXT.P1 TRUE COPY OF THE PETITION FILED BY 2ND RESPONDENT**

**EXT.P2 TRUE COPY OF THE COMPLAINT**

**RESPONDENT(S)' EXHIBITS: NIL**  
-----

/TRUE COPY/

PA TO JUDGE  
sab

**C.K. ABDUL REHIM, J.  
&  
K. RAMAKRISHNAN, J.**

-----  
**W.P.(CrI.) No.212 OF 2015**  
-----

**DATED THIS THE 25<sup>th</sup> DAY OF MAY, 2015.**

**J U D G M E N T**

C.K. Abdul Rehim, J.

The petitioner is seeking a writ of Habeas Corpus to direct production of her minor children 'Avani Krishna' and 'Ahlad Krishna' who are alleged to be under illegal detention of the 2<sup>nd</sup> respondent, who is her husband and father of the minor children. We notice that an Original Petition filed by the 2<sup>nd</sup> respondent seeking custody of the minor children is pending before the Family Court, Kottayam (at Ettumanoor).

2. Allegation is that on 08.04.2015 the 2<sup>nd</sup> respondent visited a hospital near to the petitioner's residence where the petitioner's mother was admitted and took away the children without consent or knowledge of the petitioner. Since the 2<sup>nd</sup> respondent had taken away the children without an order of the Family Court, it is alleged that the children are now under illegal custody of the 2<sup>nd</sup> respondent.

3. Based on the averments contained in the above writ petition, we are not inclined to arrive at a conclusion that

custody of the minor children with the 2<sup>nd</sup> respondent will amount to an illegal detention. In other words, we do not feel that interference of this court in exercise of discretionary jurisdiction vested under Article 226 is warranted in order to arrive at any conclusion that the minor children are under illegal detention and for ordering their release. This is because of the fact that, regarding custody of the minor children, a petition is pending before the appropriate court having jurisdiction. If the petitioner has got any case that the 2<sup>nd</sup> respondent had taken custody of the minor children without obtaining any order from that court, it is left open to her to approach the said court where the matter is pending. Since an effective statutory remedy is provided in this regard, we do not feel that exercise of the discretionary jurisdiction under Article 226 may not be justified.

4. Learned Counsel raised vehement contentions that existence of an alternate statutory remedy cannot be taken as a bar for exercise the discretionary jurisdiction, which is more speedy in nature. But we are of the considered opinion that the issue involved is a matter which need appreciation of factual aspects and circumstances, in order to arrive at better

decision regarding arrangement to be made for custody of the minor children, in the dispute between the parents.

Hence we decline interference and dismiss this writ petition, leaving the parties to adjudicate the matter before the Family Court in appropriate proceedings.

Sd/-

**C.K. ABDUL REHIM, JUDGE.**

Sd/-

**K. RAMAKRISHNAN, JUDGE.**

Bb

*[True copy]*

*P.A to Judge*