

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(Crl.) .No. 236 of 2015 (S)

PETITIONER(S) :

K.M.SANJAY AGED 46 YEARS
'VISHAL', PUNNOL DESOM, THALASSERY
KANNUR DISTRICT - 670 102.

BY ADVS.SRI.A.JAYASANKAR
SRI.C.V.MANUVILSAN
SRI.MANU GOVIND

RESPONDENTS

1. THE DIRECTOR GENERAL OF POLICE
KERALA, POLICE HEAD QUARTERS
THIRUVANANTHAPURAM - 695 001.

2. THE SUPERINTENDENT OF POLICE,
KASARGODE - 671 121.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
KASARGODE - 671 371.

4. THE CIRCLE INSPECTOR POLICE
HOSDURG POLICE STATION, KANHANGAD - 671 315.

5. THE SUB INSPECTOR OF POLICE,
HOSDURG POLICE STATION, KANHANGAD - 671 315.

6. SRI.ABDUL MUQEEM MOHAMMED
S/O.MOHAMMED ABDUL RAHIM, 19/4/364/1/11
CHIRAG ALI NAGAR, KISHAN BAGH, HYDERABAD - 500 064.

BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION K.I.ABDUL RASHEED
BY GOVERNMENT PLEADER P.S. ABDUL KAREEM

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
K. RAMAKRISHNAN, JJ.**

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Dated this the 19th June, 2015

J U D G M E N T

K. Ramakrishnan, J:

The above writ petition was filed by the husband of the alleged detainee Mrs. Reeshna and father of Baby. Arya Sanjay aged 8 years, seeking intervention of this Court to issue a writ of Habeas Corpus to produce the body of the above detainee, said to be under the illegal detention of the 6th respondent and set them free under Article 226 of the Constitution of India.

2. It is alleged in the petition that the petitioner married the said detainee Reeshna and Baby Arya Sanjay was born to them and the child is aged only 8 years. The marriage was solemnized on 03.09.2000. Thereafter, the petitioner left for Dubai in connection with his employment . The said Reeshna also joined the petitioner in Dubai after completing her P.G. Course. Their marital relationship got strained by the end of 2005 since she was having some extra marital relationship with one

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Mr. Sandeep Pangarkar and they have decided to separate. So she left Dubai to her parental house at Kanhangad. However, due to the intervention of mediators, the disputes between them have been amicably settled and they have decided to live together as husband and wife. On 13.03.2015, the petitioner with his family left Dubai to Kannur for vacation for three weeks. They were residing together in his house at Thalassery. Thereafter, all of them went to the parental house of detinue on 16.03.2015. After staying there for a day, the petitioner returned to his parental house at Thalassery and the detinue was scheduled to arrive back on 23.03.2015 to Thalassery as intimated by his wife Reeshna. He spoke to his wife on 22.03.2015 at 7.40. p.m. At that time also she confirmed that she will reach back to the matrimonial house. On 23.03.2015, the detinue's father dropped the detinue at Kanhangad Railway Station. Though the petitioner reached the Thalassery Railway station to pick up his wife and child, he could not find the detinue and the child. Though he tried to contact them, it was in vain. Though a complaint was lodged before the

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Thalassery Police Station for man missing, they refused to accept the written complaint. So he decided to file a petition before the Kanhangad Police station. Accordingly, as instructed, the detinue's father filed a complaint at Kanhangad police station on the very same day. It is later informed that she was under the illegal detention of the 6th respondent at Hyderabad. So the petitioner has no other alternative, but to approach this Court. Hence this petition seeking for the following reliefs:

"i) issue a writ of Habeas Corpus commanding the respondents to cause the production of the wife of the petitioner Mrs. P.K. Reeshana, aged 36 years and daughter of the petitioner Arya Sanjay, aged 8 years, who is now kept under illegal detention, before this Honourable Court and set them at their liberty forthwith.

ii) issue such other writ, order or direction as are deemed just and proper on the facts and circumstances of the case."

3. On the last hearing date, it was reported by the Addl.

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Director General of Prosecution that on the basis of the complaint given by the father of the detainee, a case was registered as Crime No.348 of 2015 of Hosdurg Police station for man-missing and investigation is being conducted. So far they could not trace out the whereabouts of the detainee Reeshna and her child Baby Arya Sanjay. According to their information, the 6th respondent is working at Jeddha since last few years and he has not returned to Hyderabad since the last 1½ years. This Court had directed the second respondent/Superintendent of Police, Kasaragod to personally monitor the investigation by constituting a Special Team, if required, entrusting the investigation to any responsible officer and trace out the missing person at the earliest possible time and the case stood adjourned to 02.07.2015. Today, morning it was reported by the Public Prosecutor that the detainee was traced out. Hence this matter was taken up today.

4. Today, the S.I. Of Police, Hosdurg submitted a report through the learned Government Pleader stating that the detainee was traced out from Gulberga on 17.06.2015 and it

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was revealed that she was residing with the 6th respondent till then. She was produced before the JFCM-I, Hosdurg on 18.06.2015 after medical examination. As directed, the detainee and the child are produced before this Court.

5. The detainee Reeshna and her child Baby Arya Sanjay were produced. We have interacted with the detainee/ Reeshna. She had admitted that she went to Mangalore and stayed with the 6th respondent for the last two months and two days' back, she came back to her parental house and she was produced before the Magistrate's Court; and thereafter she was left free from there. It is further added that now she is residing with her parents and that she is not under the illegal detention of either the 6th respondent or any other person. It is further admitted that she does not want to go to her matrimonial home and she is interested in going with her parents. Since we are convinced that the detainee is not under any illegal detention of any person, there is no need to issue any writ of Habeas Corpus as claimed in the petition and she is permitted to go along with her parents, who are also present before this Court today.

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However, it is left open to the parties to move the appropriate forum for redressing their grievance regarding the matrimonial dispute pending between them.

With the above observation, the writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

**K. RAMAKRISHNAN,
JUDGE.**

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