

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 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(Crl.).No. 263 of 2015 (S)

PETITIONER:

KABEER K K, AGED 29 YEARS,
S/O. K.A.KASIM, KADAVIL PARAMBIL HOUSE,
KARIMUGAL P.O., AMBALAMUGAL, PIN 682308.

BY ADVS.SRI.K.A.RASHEED
SRI.D.M.NOWFAL

RESPONDENTS:

1. ABDUL KARIM
AGED ABOUT 50 YEARS, S/O.K.A. MUHAMMED
KALLEPURAM HOUSE, BAPU MASTHIRI ROAD, MAROTTICHODU,
EDAPPALLY P.O. PIN 682024.

2. SAINABA,
W/O.ABDUL KARIM, AGED 44 YEARS, KALLEPURAM HOUSE
BAPU MASTHIRI ROAD, MAROTTICHODU,
EDAPPALLY P.O. PIN 682024.

3. NAVAS,
AGED ABOUT 40 YEARS, PUNNAMKULANGARA HOUSE
BAPU MASTHIRI ROAD, MAROTTICHODU
EDAPPALLY P.O. PIN 682024.

4. THE SUB INSPECTOR OF POLICE,
THRIKKAKKARA POLICE STATION, KAKKANAD PIN 682030.

R4 BY SRI. P.S. ABDUL KAREEM - GOVERNMENT PLEADERBY WITH
ADGP SRI.K.I. ABDUL RASHEED.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF THE CERTIFICATE ISSUED FROM THE MEDICAL TRUST
HOSPITAL.

EXT.P2 COPY OF THE PETITION FILED BEFORE THE SECRETARY, NJALAKAM
MUSLIM JAMA-ATH, KALAMASSERY.

RESPONDENTS' EXHIBITS:NIL

/TRUE COPY/

P.S TO JUDGE

c1

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

.....
W.P.(Crl)No.263 of 2015
.....

Dated this the 23rd day of June, 2015.

JUDGMENT

Abdul Rehim, J:

The petitioner is seeking a writ of habeas corpus for directing production of the corpus of his wife Smt. Sumayya and to set her free, based on the allegation that she is under illegal confinement of her parents - the respondents 1 and 2 - and the 3rd respondent, who is her uncle. Averments in the writ petition is that the petitioner and the alleged detainee got married on 3.8.2014 and it was an arranged marriage. On 11.1.2015 she went along with her parents to her house at Edappally, with the consent of the petitioner. At that time she was pregnant. Subsequently the petitioner came to know that the pregnancy was terminated without any reason and he suspects that it was done at the instance of respondents 1 to 3. It is alleged that respondents 1 to 3 are taking efforts to get the marital relationship dissolved, for which they have submitted complaints before the Jama-ath authorities. According to the petitioner, respondents 1 to 3 are not allowing him to

contact his wife and she is detained under illegal custody against her will.

2. When the case came up for consideration on 16.6.2015, we directed the 4th respondent to conduct a discreet enquiry as to whether the alleged detainee - Smt. Sumayya - is under any illegal confinement. The 4th respondent was directed to get her independent statement recorded through a woman police officer, without being influenced by any of her family members.

3. Today when the matter is taken up, the 4th respondent had submitted a report enclosing the statement of alleged detainee, recorded by a woman police officer. In the statement it is mentioned that the matrimonial relationship remains strained and there exists a lot of disputes between the petitioner and the alleged detainee, as well as between the family members of both sides. It is specifically mentioned that she had left the house of the petitioner during January, 2015, after getting his consent. It is admitted that at that time she was pregnant. But she developed bleeding and has to undergo termination of pregnancy at MAJ Hospital at Edappally. It is alleged that

even after informing about the same, the petitioner and his family have not enquired about the detenue nor had made any visit to her house. It is specifically mentioned in the statement that she is not interested in having co-habitation with the petitioner and that she is at present staying in her parental house of her own wish and will.

4. From the facts and circumstances as narrated above, we are of the considered opinion that there is absolutely no material before this Court to presume that the alleged detenue Mrs. Sumayya is under illegal confinement of respondents 1 to 3, as alleged in the writ petition. Therefore, there is no circumstance warranting interference of this Court to issue any writ of habeas corpus. However, it is made clear that the parties to the marriage are at liberty to seek appropriate remedy in relation to the disputes before appropriate court. Needless to observe that if any such proceeding is instituted, the court concerned shall decide such issues on merits, totally untrammelled by any of the observations contained herein above.

Under the above mentioned circumstances, this writ

petition is dismissed with liberty reserved to the parties as mentioned above.

Sd/-
C.K.ABDUL REHIM, JUDGE.

Sd/-
K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

cl

