

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(Crl.).No. 285 of 2015 (S)

PETITIONER(S):

BABU, AGED 46 YEARS,
S/O.VARGHESE @ KOCHU CHERUKKAN, REENA BHAVAN,
THALACHIRA P.O, KAVUMKODE, KOTTARAKKARA.

BY ADV. SRI.AJAYA KUMAR. G

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.
2. THE SUPERINTENDENT OF POLICE RURAL,
OFFICE OF THE SUPERINTENDENT OF POLICE,
KOTTARAKKARA 691 506.
3. THE SUB INSPECTOR OF POLICE,
PUNALUR POLICE STATION, KOLLAM 691 305.
4. ANI, AGED 37 YEARS,
S/O.KUTTAPPY, PALUVAYAL THUNDUVILA VEEDU, MYLOM P.O.,
THEKKEKKARA, KOTTARAKKARA 691 560.

R1-R3 BY SRI.TOM JOSE PADINJAREKKARA,
ADDL.DIRECTOR GENERAL OF PROSECUTION
GOVERNMENT PLEADER SRI. SHIBU JOSEPH.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP(Crl.).No. 285 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF THE CERTIFICATE ISSUED BY THE VICAR ST.JOHNS
ORTHODOX CHURCH.**

**EXHIBIT P2. COPY OF THE PHOTOGRAPHS SHOWING THE MARRIAGE
FUNCTION AT ST.JOHNS ORTHODOX CHURCH.**

**EXHIBIT P3. COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE
2ND RESPONDENT DTD, 05.06.2015..**

RESPONDENT(S)' EXHIBITS

//True Copy//

P.A. to Judge

SS

C.K. ABDUL REHIM &

K. RAMAKRISHNAN, JJ.

W.P.(Crl.) No.285 of 2015

Dated this the 10th day of July, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is the husband of one Smt.Reena, their marriage being solemnized on 24.02.2003. Two children aged 11 years and 8 years were born out of that wedlock. This writ petition is filed with the averments that the petitioners wife was missing from 24.05.2015 onwards and enquiries made by the petitioner and his relatives revealed that the 4th respondent had abducted her and taken her to some unknown place. It is alleged that, the petitioner submitted complaints to the police authorities with respect to missing of his wife, but no action was initiated on the basis of any such complaints. Alleging that the petitioner's wife Smt.Reena is under illegal confinement of the 4th respondent, this petition is filed seeking a writ of Habeas Corpus for directing production of her corpus and to set her at liberty.

2. Notice sent from this court to the 4th respondent was received by his father's brother. Special messenger deputed

from this court had reported that the 4th respondent was not in station. Since nobody entered appearance on behalf of the 4th respondent, this court directed respondents 2 and 3 to make enquiries to trace out the missing persons and to submit a report.

3. Today when the case is called up, learned Government Pleader appearing on behalf of respondents 1 to 3 submitted that investigation conducted by the police had revealed that, there existed some matrimonial disharmony between the petitioner and the alleged detainee and the alleged detainee went to Saudi Arabia during 2012 for a job of domestic works. It is stated that during 2014 she returned to India and lived at her parental house. It is further learned that the alleged detainee was in a convent for 17 days, during June 2015. The investigation revealed that the alleged detainee Smt.Reena had gone to Saudi Arabia on 07.07.2015 at 2.30 hours by Air India Flight from Cochin International Air Port and she is now in Saudi Arabia. When the police authorities contacted her over telephone, she told that she had gone to Saudi Arabia on a 'house maid' visa and the matter was informed to the petitioner.

4. Learned counsel appearing for the petitioner

submitted that it is now learnt that the alleged detainee went abroad along with the 4th respondent.

5. Under the above mentioned circumstances, it is evident that the alleged detainee Smt.Reena is not under any illegal confinement of 4th respondent as alleged. On the other hand, she had left the country on her own wish and will. Under such circumstances, this court is not satisfied that there exists any circumstances warranting issuance of a writ of Habeas Corpus, invoking jurisdiction vested under Article 226 of the Constitution of India. However, the petitioner will be at liberty seek appropriate remedy on the basis of the matrimonial relationship existing with the alleged detainee, before appropriate forum.

The writ petition is dismissed subject to liberty reserved in favour of the petitioner as mentioned above.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge