

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 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(Crl.).No. 290 of 2015 (S)

PETITIONER(S):

**SUSEELA PRASANNAN, AGED 45 YEARS, W/O. PRASANNA KUMAR,
PRASANNA BHAVANAM, KODUMON EAST, PATHANAMTHITTA.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENT(S):

- 1. DISTRICT POLICE CHIEF
S.P.OFFICE, PATHANAMTHITTA, PIN-689 645.**
- 2. CIRCLE INSPECTOR OF POLICE
CIRCLE OFFICE, ADOOR, PIN-689 642.**
- 3. SUB INSPECTOR OF POLICE
POLICE STATION, KODUMON, PIN-691 555.**
- 4. JINESH , AGED 25 YEARS,
S/O. JAYAN, PUSHPA VILASOM, PARANTHAL
PANDALAM, PIN-689 501.**
- 5. SUDHA , AGED 48 YEARS
W/O. JAYAN, PUSHPA VILASOM, PARANTHAL
PANDALAM, PIN-689 501.**
- 6. RAJESH , AGED 29 YEARS,
S/O. RAVI, RATHEESH BHAVANAM, KULATHINAL
KODUMON EAST, PATHANAMTHITTA-689 645.**

**ADDL.R7. THE SUB INSPECTOR OF POLICE NOORANADU POLICE STATION
NOORANADU IS IMPEADED SUO-MOTO AS PER ORDER DATED 08/07/2015
IN W.P(Crl.) 290/2015**

**R1 TO R3 BY ADV. DIRECTOR GENERAL OF PROSECUTION SRI.TADAF ALI
R4 TO R 6 BY ADV. SRI.M.L.SAJEEVAN
R4 TO R 6 BY ADV. SRI.M.N.SANJITH
R7 BY GOVERNMENT PLEADER SMT.KOCHUMOL KODUVETH**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD

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

W.P(Crl) No.290 of 2015

Dated this the 14th day of July, 2015

JUDGMENT

C.K.Abdul Rehim,J

The petitioner is approaching this court seeking a writ of Habeas Corpus for directing production of her daughter Smt.Asha and her grand daughter Miss.Shivaganga (minor aged 4 years). The alleged detainee smt.Asha is the wife of Sri.Shaji son of Prabhakaran. The minor child Shivaganga was born out of their wedlock. Averments in the writ petition are to the effect that, Smt.Asha was residing in her husband's house at Komalloor, Chunakkara along with the child. Husband of the detainee, Sri.Shaji went to Oman on 22.05.2015 on getting a job there. Thereafter the detainee was residing along with the child at his house at Komalloor. But the petitioner came to know that Smt.Asha along with child were missing from the matrimonial house from 07.06.2015 onwards. Enquiries made by her revealed

that the 4th respondent had taken them into custody and removed them to some unknown place. The 5th respondent is the mother of the 4th respondent and the 6th respondent is a cousin brother of the 4th respondent. This writ petition is filed based on the allegation that the respondents 4 to 6 are illegally detaining the alleged detainees.

2. Pursuant to notice issued from this Court, the respondents 4 to 6 appeared through Counsel. It is submitted that the alleged detainees are not in their custody and that they have no involvement with respect to missing of the alleged detainees. Learned Government Pleader on instruction submitted that, with respect to missing of the alleged detainees a crime was registered at Noornad Police Station as crime no.598/2015, under Section 57 of the Kerala Police Acts. It was also submitted that the detainees appeared before the Judicial First Class Magistrate Court Mavelikkara and they were set at liberty. Under such circumstances, we impleaded the Sub Inspector of Police Noornad as additional respondent and

directed to cause production of the alleged detainee before this Court.

3. Today, when the case is taken up the alleged detainees were produced before this Court. We interacted with Smt.Asha. She said that she had left the matrimonial house because of severe disharmony and difference of opinion. According to her, she was staying along with one of her friend, Mrs.Soumya, since she left the matrimonial house on 07.06.2015. It is also stated that, after she appeared before the Magistrate Court on 29.06.2015, she left to Tiripur in Tamil Nadu state where she had secured a job in a textile company. She said that she is staying along with her child in Tiripur in the residence of one of her friend, Smt.Anu.S. Smt.Asha expressed her intention to continue her stay at Tiripur in the above said place and to pursue her job, at present. It is informed by the learned Counsel for the petitioner that the husband of Smt.Asha, Sri.Shaji had already initiated steps for dissolution of their marriage, by approaching the Family Court.

4. Under the above mentioned circumstances,

we are of the considered opinion that the alleged detenues are not under any illegal confinement of respondents 4 to 6. Smt.Asha is staying at Tiripur along with the child on her own free wish and will. Therefore we do not find any materials to interfere in the matter for issuance of a writ of Habeas Corpus by invoking jurisdiction vested on this Court under Article 226 of the Constitution of India.

Hence the above writ petition is hereby dismissed. The alleged detenue Smt.Asha and the minor child Shivaganga are set at liberty to stay at any places of her choice. It is also made clear that parties to the matrimony will be at liberty to sort out the issues in appropriate proceedings before appropriate courts.

C.K.ABDUL REHIM,JUDGE

K.RAMAKRISHNAN,JUDGE

AD