

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 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(Crl.).No. 294 of 2015 (S)

PETITIONER(S) :

JOBY JOHN, AGED 34 YEARS,
S/o.T.YOHANNAN,
EBANESAL HOUSE, MELKARA,
MULAKKUZHA, CHENGANNUR,
ALAPPUZHA.

BY ADVS.SRI.B.KRISHNA MANI
SRI.V.SHAHUL HAMEED

RESPONDENT(S) :

1. THE SUPERINTENDENT OF POLICE(RURAL) ,
ALUVA, ERNAKULAM DISTRICT-683 101.
2. THE STATION HOUSE OFFICER,
VARAPUZHA POLICE STATION,
VARAPUZHA, ERNAKULAM DISTRICT-683 517.
3. THE CIRCLE INSPECTOR OF POLICE,
VANITHA POLICE STATION, ALUVA,
ERNAKULAM DISTRICT-683 101.
4. SAMUEL JOHN, S/O.P.V.JOHNKUTTY,
GILGAL VILLA, NO.6, KOONAMMAVU KARA,
VARAPUZHA VILLAGE, ERNAKULAM DISTRICT-683 517.
5. P.V. JOHNKUTTY,
GILGAL VILLA, NO.6, KOONAMMAVU KARA,
VARAPUZHA VILLAGE, ERNAKULAM DISTRICT-683 517.
6. DEENAMMA,W/O.P.V.JOHNKUTTY,
GILGAL VILLA, NO.6, KOONAMMAVU KARA,
VARAPUZHA VILLAGE, ERNAKULAM DISTRICT-683 517.
7. SEEMA JOHNSON @ LINCY JOHNSON, D/O.P.V.JOHNKUTTY,
GILGAL VILLA, NO.6, KOONAMMAVU KARA,
VARAPUZHA VILLAGE, ERNAKULAM DISTRICT-683 517.

R1-R3 BY SRI. T.ASAF ALI
DIRECTOR GENERAL OF PROSECUTION
R4-R7 BY ADV. SMT.P.K.PRIYA
GOVERNMENT PLEADER SMT. KOCHUMOL KODUVATH.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Cr1.) .No. 294 of 2015 (S)

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1 : COPY OF THE REPRESENTATION DATED 29.06.15 FILED
BY THE PETITIONER BEFORE THE SUPERINTENDENT OF
POLICE.

EXT.P2 : COPY OF THE RECEIPT DATED NIL

RESPONDENTS EXHIBITS:

NIL

//True Copy//

P.A. to Judge

SS

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

W.P.(Crl.) No.294 of 2015

Dated this the 20th 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 his sister Smt.Jolly Samuel, who is the wife of the 4th respondent herein. Averments in brief are to the effect that, Smt.Jolly Samuel was married to the 4th respondent on 22.09.2005 and she started marital life along with him at Kollam District, in the house of the 4th respondent along with his parents. There arose some matrimonial disputes and it is alleged that the petitioner's sister was tortured both physically and mentally. It is evident that a criminal case was registered for offences punishable under Section 498 (A), 323, 506(2), 120B and Section 34 of the Indian Penal Code at Pathanamthitta police station during the year 2008,

which was subsequently transferred to Pathanapuram Police station. It is stated that a chargesheet was laid after investigation of the said case before the Judicial First Class Magistrate Court-III, Punalur. There were also litigations between the parties to the matrimony before the Family Court, Kollam. However, all such disputes were settled and the petitioner's sister went along with the 4th respondent to Sharjah, where he was working. But the alleged illtreatment continued even thereafter. Meanwhile parents of the 4th respondent shifted their residence to Koonammavu in Ernakulam District. Thereafter the illtreatment continued both at Sharjah and at the matrimonial house at Koonammavu. Ultimately the petitioner's sister along with the 4th respondent came back from Sharjah, on 27.06.2015. It is alleged that the 4th respondent, with the help of some henchmen had severely threatened and intimidated the alleged detinue at the Cochin International Air Port on 27.06.2015 and she was assaulted from there. It is alleged

that by force she was taken to the police station and thereafter to the residence of respondents 4 to 7 at Koonammavu. This writ petition is filed based on the allegation that, the petitioner's sister is being illegally detained at the house of respondents 4 to 7 and she is being tortured, assaulted and intimidated. According to the petitioner, the police authorities have failed to take any appropriate action, despite filing of Ext.P1 complaint. Hence the petitioner is approaching this court.

2. Initially when the case came up for consideration, we directed the 3rd respondent to make a verification regarding availability of the alleged detainee and also directed to get her statement recorded independently, through a woman police officer deputed for the said purpose. Accordingly a statement of the alleged detainee recorded at the house of respondents 4 to 7 was produced before this court. On a perusal of the statement it was revealed that the alleged detainee had explained a long

history of continuous torture and physical assault met by her from the 4th respondent and from respondents 5 to 7. Therefore we ordered notice to respondents 4 to 7 directing for production of the alleged detainee before this court.

3. The respondents 5 to 7 had entered appearance through counsel and produced the alleged detainee before this court on today. When we interacted with the alleged detainee she narrated a long history of continuous torture and physical assaults, mental torturing and intimidations caused by the 4th respondent as well as by respondents 5 to 7, both at Sharjah and at the matrimonial house in Kerala. She complained that she was brutally manhandled by the 4th respondent at Sharjah and even the officials of the Indian Embassy had occasion to interfere in the matter. According to her, after she reached the Cochin International Air Port along with the 4th respondent on 27.06.2015, she was threatened and intimidated by the 4th

respondent along with respondents 5 to 7 in the presence of some of the police officials and she was forcefully taken to the matrimonial house at Koonammavu. It is stated that the 4th respondent went back to Sharjah and she is living in the house of respondents 5 to 7 at Koonammavu, suffering all sorts of physical and mental torture, intimidation and threat. It is said that she was not permitted to have interactions with her parents or the petitioner.

4. Learned counsel appearing for respondents 5 to 7 denied all the above said allegations of mental and physical torture alleged to have been inflicted on Smt.Jolly Samuel. However, we are of the considered opinion that, it is not necessary for this court to have any adjudication with respect to genuineness of such allegations, for the purpose of disposal of this writ petition. When we put a direct question to the alleged detinuee as to whether she wants to stay at the matrimonial home or whether she is intending to go to her parental house along with the petitioner, she

categorically replied that, she does not want continue her stay at the house of respondents 5 to 7, since she is afraid of being threat caused to her life. Under such circumstances, we are inclined to order release of the alleged detainee from the custody of respondents 5 to 7. The alleged detainee is set at liberty to go along with the petitioner to her parental house at Chengannur. It is left open to the parties to the matrimony to agitate all the issues, disputes and grievances in appropriate proceedings before appropriate forum.

Under the above mentioned circumstances, this writ petition is hereby disposed of by setting the alleged detainee, Smt.Jolly Samuel at liberty and permitting her to go along with the petitioner to the parental house at Chengannur.

The 3rd respondent is directed to afford adequate protection to the petitioner and the alleged detainee for their conveyance to the house at Mulakkuzha, Chengannur. If any complaint is received from the alleged detainee or her

parents regarding any threat or intimidation during her stay at the parental house, the same shall be looked into and dealt with properly by the police authorities having jurisdiction in the local area.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

// True Copy //

P.A. to Judge