

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 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(Crl.).No. 296 of 2015 (S)

PETITIONER:

**MANU,
AGED 35 YEARS, S/O. CHANDRASEKHARAN PILLA,
MOODAMPADYIL HOUSE,
ERUVA PADINJARU MURI, PATHIYOOR VILLAGE
ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.K.B.ARUNKUMAR
SRI.RANJIT BABU**

RESPONDENTS:

- 1. SUB INSPECTOR OF POLICE,
KARIYILAKULANGARA POLICE STATION
ALAPPUZHA DISTRICT.**
- 2. KALESH
S/O. VASUDEVAN, KALALAYAM, POTHAMPALLI NORTH MURI
KUMARAPURAM VILLAGE, KARTHIKAPALLI TALUK
ALAPPUZHA DISTRICT.**
- 3. SARASAMMA, AGED 65 YEARS
W/O. VASUDEVAN NAIR, KALALAYAM, POTHAMPALLI NORTH MURI
KUMARAPURAM VILLAGE, KARTHIKAPALLI TALUK
ALAPPUZHA DISTRICT.**
- 4. SAJI
S/O. UTHAMAN, RANDUPANATHIYIL KIZHAKKETIL
POTHAMPALLI NORTH MURI, KUMARAPURAM VILLAGE
KARTHIKAPALLI TALUK, ALAPPUZHA DISTRICT.**

**R1 BY ADV. SRI. TOM JOSE PADINJAREKKARA, ADGP &
SRI.SHIBU JOSEPH, SR. GOVT. PLEADER**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 13-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
AMG**

WP(Crl.).No. 296 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS

**P1 - THE TRUE COPY OF THE FIR AND FIS IN CRIME NO. 941/2015 OF
KARIYILAKULANGARA POLICE STATION.**

RESPONDENT'S EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

W.P (Crl.) No. 296 OF 2015

DATED THIS THE 13th DAY OF JULY, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is approaching this court with an allegation that his wife Smt. Lekha aged 30 years and their children Parthana aged 6 years and Pranav aged 2½ years are under illegal confinement of respondents 2 and 4. Averments are to the effect, that wife of the petitioner is a school teacher. On 27-06-2015 at around 10.30 a.m. she went along with her children to the parental house on a scooter. But she had not returned thereafter. According to the petitioner, enquiries conducted by him had revealed that respondents 2 & 4 had forcibly taken the detenues in an Innova Car of the 4th respondent to some unknown place. It is pointed out that, on the basis of a complaint submitted before the 1st respondent, Ext.P1 case was registered under Section 57 of the Kerala Police Act with respect to missing

of the alleged detenues. But it is alleged that no effective enquiry has been conducted by the 1st respondent. This writ petition is filed on the premise that the alleged detenues are under illegal confinement of respondents 2 and 4. Hence the petitioner seeking for a writ of Habeas Corpus for directing for production of the wife of the petitioner and his children and to set them at liberty.

2. Today, when the case is called up, the alleged detenues are present before this court. The petitioner as well as parents of Smt. Lekha are also present. We interacted with the alleged detainee, Smt. Lekha. She said that her matrimonial relationship with the petitioner was under disharmony since the last so many years. According to Smt. Lekha she went along with her children to Mysore on 27-06-2015 on her own will, in a car owned by the 4th respondent. She said that she was working as a teacher in a school and the 2nd respondent is the office bearer of Parent-Teacher Association in the said school. According to her the 2nd respondent had also accompanied her along with his children. She further submitted that on coming to know

about Ext.P1 case registered, she along with the children appeared before the Judicial First Class Magistrate Court-I, Haripad on 07-07-2015. The learned Magistrate had closed the matter on the basis of her statement that she is not under any illegal confinement. The children were permitted to go along with the petitioner herein, whereas Smt. Lekha is directed to be admitted at 'Janaki Mandiram Working Womens Hostel', Near Railway station, Haripad. According to Smt. Lekha, she is not willing either to go along with the petitioner or to go along with her parents. She said that she is under severe mental stress due to the matrimonial problems faced by her in the company of the petitioner. She wanted to have a lonely life at present. It is said that she is intending to stay at the Hostel where she is now admitted, for the time being. It is also said that she is also on the lookout for another job.

3. Considering the circumstances as mentioned above, we are convinced that the alleged detenues are not under illegal confinement. The children are already with the petitioner, as entrusted by the learned Magistrate. The wife

of the petitioner, Smt. Lekha, said that she is not under any illegal confinement. She wanted to continue her stay at the above said Hostel.

4. Under the above mentioned circumstances we do not find any circumstances existing for interference of this court to issue any writ of Habeas Corpus. Hence the writ petition is liable to be dismissed. However, we make it clear that the parties will be at liberty to take appropriate remedy with respect to the matrimonial disputes and with respect to custody of the children, before the Family Court having jurisdiction in the matter.

5. The writ petition is hereby dismissed, subject to the above observations.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge