

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 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(Crl.).No. 313 of 2015 (S)

PETITIONER(S) :

SALEESH, AGED 34 YEARS,
S/O.JACOB, VALIYA PARAMBIL, KADAMAKKUDY,
PIZHALA P.O., - 682 027.

BY ADV. SRI.SHERRY J. THOMAS

RESPONDENT(S) :

1. DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695 001.
2. THE SUPERINTENDENT OF POLICE,
OFFICE OF THE RURAL SUPERINTENDENT OF POLICE,
ALUVA-683 105.
3. CIRCLE INSPECTOR OF POLICE,
OFFICE OF THE CIRCLE INSPECTOR OF POLICE,
PARAVOOR - 683 512.
4. SUB INSPECTOR OF POLICE,
POLICE STATION, VARAPPUZHA-683 517.
5. STATE OF KERALA
REPRESENTED BY HOME SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

ADDL.R6. BOBIN @ RAJIB
PERMANENT ADDRESS AT PARA RAMNA NATUNPARA,
DHARAMPUR, RAMANA, HARIHARPARA,
MURSHIDABAD - 742 166.

TEMPORARY ADDRESS AT
VHSE ANNEX, KADAMAKKUDY, CHENNUR, ERNAKULAM DISTRICT
PHONE: 8086025726.

(ADDL.R6 IMPEADED AS PER ORDER DATED 17.07.2015 IN
I.A.NO.10228/2015 IN W.P.(CRL.)NO.313/2015)

R1-R5 BY ADV.SRI. K.I.ABDUL RASHEED,
ADDL.DIRECTOR GENERAL OF PROSECUTION
GOVERNMENT PLEADER SRI.P.S.ABDUL KARREM.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.P.(CrI.)No.313 of 2015

Dated this the 4th day of August, 2015

JUDGMENT

C.K. Abdul Rehim, J

Petitioner is the husband of the alleged detenue Smt.Tintu. Marriage between the petitioner and the alleged detenue was in the year 2010 and two minor children, aged 4 years and 2 years respectively, were born out of the wedlock. The petitioner, the alleged detenue and the two minor children were living together at the residence of the petitioner. The alleged detenue was missing from 23.06.2015 onwards. Based on a complaint instituted by the petitioner the 4th respondent had registered Crime No.544/2015 under Section 57 of the Kerala Police Act, with respect to missing of the petitioner's wife. This writ petition was originally filed based on an allegation that the wife of the petitioner is under illegal detention of certain unknown persons. However, it was stated that the petitioner came to know that persons named, Bobin and Shameer are behind

disappearance of the petitioner's wife. Subsequently the petitioner had impleaded the additional 6th respondent, based on an allegation that his wife went along with the 6th respondent and is now under his illegal detention. On that basis the petitioner is seeking a writ of Habeas Corpus for directing production of the alleged detainee and to set her at liberty.

2. Even though notice was sent through special messenger to the 6th respondent in his local address (Temporary Address) it was reported that he is not in station in the address at Kadamakkudy, Chennur in Ernakulam District. When the case was taken up for consideration on 22.07.2015, it was submitted on behalf of respondents 1 to 5 that the investigation so far conducted in the case registered had revealed that the alleged detainee has gone along with the additional 6th respondent and that the additional 6th respondent is not available in the local address furnished by the petitioner. It is stated that the

alleged detainee had proceeded along with the 6th respondent to his native place at Murshidabad in West Bengal and that the police authorities are making arrangements to proceed to that place to conduct investigation.

3. Today when the case is taken up, the 4th respondent had filed a report before this court. In the report it is mentioned that during investigation it was revealed that the alleged detainee had eloped with the 6th respondent and they are in West Bengal. The investigating team had visited West Bengal on 26.07.2015 and made enquiries with the help of the local police at Hariharpara police station, near Murshidabad. On investigation it was revealed that the parents of the 6th respondent as well as his wife Smt.Rupali Bibi are available at the house. But they have no information about the 6th respondent or about the alleged detainee. Enquiries revealed that the 6th respondent had not reached his home after he went to Kerala in seek of

a job. On showing photograph of the alleged detainee, nobody in the locality could identify her. It is stated that the police authorities are pursuing investigation by tracing out the call details of the mobile telephone used by the alleged detainee. It is further stated in the report that the investigation of the case has now been entrusted to the "District Missing Persons Tracing Unit" of Ernakulam (Rural) District and the investigation is now lead by the Deputy Superintendent of Police, Crime Detachment.

4. Considering the report of the 5th respondent we are convinced that the alleged detainee had went along with the 6th respondent and that she is not under any illegal confinement as alleged. There is no materials available before this court to arrive at any conclusion regarding the alleged illegal detention. Therefore, there exists no circumstances warranting interference of this court to issue any writ of Habeas Corpus. Hence the writ petition is liable to be dismissed.

5. However, we direct the District Police Chief, Ernakulam(Rural) at Aluva, to give necessary directions to the investigating agency who is presently investigating Crime No.544/2015 of Varappuzha police station to take all earnest efforts to intensify the investigation and to trace out the missing persons. It is made clear that the petitioner will be at liberty to seek appropriate remedy in future, if the investigation has not yielded in any positive result and if he has got any complaint with respect to conduct of the investigation, by approaching the appropriate court.

Reserving liberty as mentioned above, this writ petition is disposed of, finding that there exists no circumstances for issuance of any writ of Habeas Corpus.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

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P.A. to Judge