

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. 329 of 2015 (S)

PETITIONER:

**SREEKUMAR T. MENON,
AGED 35 YEARS, S/O.NARAHARI,
PALAPETTY HOUSE, VELLANGALLUR PO
THRISSUR DISTRICT**

**BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.SEBIN THOMAS
SMT.J.KASTHURI
SRI.VISHNU BHUVANENDRAN**

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
HOME DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695001**
 - 2. THE ASSISTANT COMMISSIONER OF POLICE
GURUVAYOOR POLICE STATION, GURUVAYOOR
THRISSUR DISTRICT 680101**
 - 3. PADMAKUMAR
S/O.PADMANABA MENON, CHATHANATH VEEDU, PADINJARE NADA
GURUVAYOOR, THRISSUR DISTRICT 680101**
 - 4. REKHA
W/O.SANTHOSH KUMAR, CHATHANATH VEEDU, PADINJARE NADA
GURUVAYOOR, THRISSUR DISTRICT 680101**
- R1 & 2 BY ADV. SMT. SREELATHA PARAMESWARAN,
SPL. GOVT. PLEADER, WOMEN AND CHILDREN.**

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
AMG**

APPENDIX

PETITIONER'S EXHIBITS

P1: TRUE COPY OF THE RECEIPT ISSUED FROM THE CHIEF MINISTER'S OFFICE.

P2: TRUE COPY OF THE STATEMENT GIVEN BY THE 3RD RESPONDENT.

P3: TRUE COPY OF THE STATEMENT GIVEN BY THE 4TH RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

W.P (Crl.) No. 329 OF 2015

DATED THIS THE 4th DAY OF AUGUST, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is seeking a writ of Habeas Corpus for directing production of the corpus of his father namely, Sri. Narahari, aged 71 years and to release him at liberty. Allegations are to the effect that, the respondents 3 & 4 are illegally detaining the alleged detainee. The 4th respondent is the sister of the petitioner. The 3rd respondent is the brother of the 3rd respondent's deceased husband. Averments are to the effect that, the alleged detainee was originally residing with the petitioner in his house along with his mother. Subsequently he was taken to the house of the 4th respondent. It is alleged that the 4th respondent had not permitted to see his father since the last more than one year. Subsequently the petitioner came to know that his father is missing since the last more than one year.

Therefore he filed a complaint before the hon'ble Chief Minister as per Ext.P1. It is stated that on the basis of Ext.P1 complaint the 2nd respondent had recorded statements of respondents 3 & 4, copy of which is produced as Exts.P2 & P3. It is alleged that the 2nd respondent had not conducted any further enquiry nor had taken any steps to investigate about the case missing of the petitioner's father. Pointing out some discrepancies and contradictions in Exts.P2 & P3 statements made by respondents 3 & 4, it is alleged that the petitioner and his mother genuinely apprehend that his father is under illegal detention at some unknown place by respondents 3 & 4. Hence this writ petition is filed.

2. When the matter came up for consideration on 23-07-2015 we directed the Government Pleader to get instructions from the police authorities as to whether any case has been registered with respect to missing of the petitioner's father, and if so, what is the stage of the investigation. Learned Special Government Pleader (Women

and Children) appearing on behalf of respondents 1 & 2 submitted on instructions from the 2nd respondent that, based on Ext.P1 complaint which was forwarded to the 2nd respondent, an enquiry was conducted. The 4th respondent gave statement that the father-Sri. Narahari was ousted from the house of the petitioner about 3 years back and since then he was being looked after by the 4th respondent. It is also stated that the father is having psychosis problems and was under medical treatment. Under such circumstances the deceased husband of the 4th respondent had taken him to an institution run by Carmelite Sisters of St. Theresa in Coimbatore. It is stated that Sri. Narahari is a literate person and is doing account works in that institution. Since the petitioner had a habit of quarreling with and threatening the father for getting the landed property remaining in the name of the father, the 4th respondent or her relatives have never disclosed the whereabouts of the father to the petitioner. It is further mentioned that death of the 4th respondent's husband in a

Gas explosion was also not revealed to the father, since he is a psychic patient. According to the 4th respondent if the petitioner came to know about the location of the father he will also disclose the matter to him, which according to 4th respondent, will be a severe shock to the father which he cannot bear. It is stated that the alleged detainee is now leading a normal life in a safe place in the above said convent at Coimbatore. The 4th respondent had further admitted that she is desiring to bring back the father to her house, within a short time. The 2nd respondent had reported that the father of the petitioner Sri.Narahari is at present staying at 'Villa Carmelite Sisters of St. Teresa (Kerala Province), 34, Shaj Liberty Garden, TVS Nagar, Thadakam Road, Coimbatore-641025.'

3. From the report submitted by the 2nd respondent it is evident that whereabouts of the alleged detainee is revealed to the police authorities and the investigation conducted by them had disclosed that he is not under any illegal confinement. Under the above mentioned

circumstances we do not find any materials existing to arrive at a conclusion that the alleged detainee is under any illegal confinement of respondents 3 & 4, as alleged. Hence the above writ petition is hereby dismissed holding that there exist no circumstances warranting interference of this court for issuing a writ of Habeas Corpus.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge