

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(Crl.).No. 331 of 2015 (S)

PETITIONER(S):

JYOTHIRMAYI, AGED 37 YEARS,
D/O.PRAKASH, ANUGRAH, CHERUTHURUTHY,
THRISSUR DISTRICT. 679 531.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM- 695 001.
 2. THE SUPERINTENDENT OF POLICE,
THRISSUR- 680 001.
 3. THE SUB INSPECTOR OF POLICE,
SHORNUR POLICE STATION, 678 001.
 4. THE CIRCLE INSPECTOR OF POLICE,
WADAKKANCHERRY POLICE STATION,
THRISSUR DISTRICT. 680 001.
 5. PADMESH
NO.W-25, 13TH STREET, A SECTOR
ANNA NAGAR, WEST EXTENSION, CHENNAI 600 101.
- R1-R4 BY SR. GOVERNMENT PLEADER SRI. SHIBU JOSEPH
R5 BY ADV. SRI.MAHESH V.MENON

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 19-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 331 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1. COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE THE THIRUMANGALAM POLICE STATION DATED 4.10.14.

EXHIBIT P2. COPY OF THE TRANSFER CERTIFICATE SENT BY THE 5TH RESPONDENT DATED 18.5.15.

EXHIBIT P3. COPY OF THE COVER IN WHICH EXT. P2 WAS RECEIVED BY THE PETITIONER DATED 21.5.15.

EXHIBIT P4. COPY OF THE FEE PAYMENT SCHEDULE OF THE CHILDREN OF THE PETITIONER DATED 27.5.15.

EXHIBIT P5. COPY OF THE RECEIPT ISSUED BY THE 3RD RESPONDENT DATED 20.7.15.

EXT.P6 TRUE COPY OF THE DIFFERENT MESSAGES SENT BY THE 5TH RESPONDENT OF DIFFERENT DATES.

EXT.P7 TRUE COPY OF THE DIFFERENT RECEIPTS ISSUED BY THE CARMEL SCHOOL KALLIPADAM, DATED 27.5.2015.

EXT.P8 TRUE COPY OF THE MESSAGE OF THE 5TH RESPONDENT.

RESPONDENT(S)' EXHIBITS

EXT.R5(A) TRUE RECEIPT ISSUED BY THE VELAMMAL GLOBAL SCHOOL, PUZHAI CHENNAI DATED 8.4.15.

EXT.R5(B) TRUE RECEIPT ISSUED BY THE VELAMMAL GLOBAL SCHOOL, PUZHAI CHENNAI DATED 25.4.15.

EXT.R5(C) TRUE COPY OF THE LETTER ISSUED TO THE SUB INSPECTOR OF POLICE, CHERRUTHURUTHY POLICE STATION DATED 20.7.2015.

EXT.R5(D) POSTAL RECEIPT DATED 21.7.15.

EXT.R5(E) COPY OF THE SCREEN SHORT TAKEN FROM THE PHONE OF THIS RESPONDENT.

EXT.R5(F) COPY OF OP.NO.28529/2015 BEFORE THE HIGH COURT OF JUDICATURE, MADRAS.

/TRUE COPY/

P.S. TO JUDGE

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

.....
W.P.(Crl)No.331 of 2015
.....

Dated this the 19th day of August, 2015.

JUDGMENT

Ramakrishnan,J:

This writ petition is filed by the mother of the minor children for issuance of a writ of Habeas corpus invoking power of this Court under Article 226 of the Constitution of India on the allegation that the minor children were forcibly taken by the fifth respondent, the father of the children and kept under illegal detention.

2. It is alleged in the petition that, the petitioner and the 5th respondent are husband and wife and two children by name Rithika and Amith were born to them in the wedlock and they were happily living together at Chennai. Due to some difference of opinion between them, the petitioner had come to Kerala to her matrimonial home along with the children and some arrangements were made for admitting the children in Kerala and accordingly admission has been secured in a school of her native place. While the children were studying in the school, on 27.5.2015, the 5th respondent had forcibly taken the

children from the school to Chennai and illegally detained them in his custody denying access of the children to the petitioner and even without intimating their whereabouts, which prompted her to move this Court with the prayer for issuance of a writ of habeas corpus directing the 5th respondent to produce body of the children before this Court and to set them at liberty.

3. The fifth respondent entered appearance and filed counter denying the allegations.

4. Earlier we were not inclined to admit the writ petition, later we felt that presence of the parties with the children is required for proper consideration of the writ petition. So, we directed the 5th respondent to be present in court and produce the children. Accordingly, on the last hearing date namely 17.8.2015, the 5th respondent along with the children were present in court. Considering the nature of dispute between the parties and also considering the fact that already an application for custody of the children has been preferred by the 5th respondent before the High Court of Judicature at Chennai as O.P.No.28529/2015, we felt that it is a matter to be settled

between the parties. Both the counsel agreed to refer the matter for mediation. We interacted with the petitioner and the 5th respondent and pursued them to undergo the process of mediation taking into consideration welfare of the children and they agreed for the same. Accordingly, the matter was referred to mediation and posted the case to today for considering the matter after mediation.

5. In the mediation, the matter has been settled between the parties and the mediator had sent a report along with the settlement agreement entered into between them. As per the settlement, the parties have agreed to reside together for the purpose of looking after the children properly and also taking into consideration of the welfare of the children. It is agreed that all the litigations pending between the parties will be withdrawn and the petitioner will join the 5th respondent and the children after two weeks. Till then, custody will be with the 5th respondent.

6. When the petition came up for hearing today, both the parties were present along with the children and they expressed their willingness to go together to Chennai today itself with

the children. So, under the circumstances, we record the mediation settlement and also submission made by the parties and the counsel appearing for both the parties and dispose of the writ petition allowing the children to be with the father and mother, who have agreed to reside with the children together at Chennai.

7. The father of the petitioner, who is personally present in court, wanted to advise the parties to lead a happy married life with mutual understanding taking into consideration welfare of the children. The anxiety of the father is also taken note of while disposing the writ petition and parties are advised accordingly.

With the above observations and directions, this writ petition is disposed of. The mediation agreement will form part of this judgment.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

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P.S to Judge