

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. 338 of 2015 (S)

PETITIONER(S) :

PRAKASAN, AGED 44 YEARS,
S/O.VELAYUDHAN, THAYYIL PARAMBIL HOUSE,
NIRAMARUDOOOR P.O., PATHAMPADU, THIRUR,
MALAPPURAM DISTRICT, PIN-676 109.

BY ADVS.SRI.K.R.SUNIL
SRI.MANU RAMACHANDRAN
SMT.K.V.SAMUDRA
SMT.B.L.RENJU

RESPONDENT(S) :

1. THE DEPUTY SUPERINTENDANT OF POLICE,
THIRUR, MALAPPURAM DISTRICT-676 505.
2. THE CIRCLE INSPECTOR OF POLICE,
THIRUR POLICE STATION, THIRUR,
MALAPPURAM DISTRICT-676 505.
3. THE SUB INSPECTOR OF POLICE,
THIRUR POLICE STATION, THIRUR, MALAPPURAM
DISTRICT-676 505.

Addl.4. MOIDEENKUTTY, AGED ABOUT 40 YEARS,
S/O.KASSIMY, MAINKANATHU HOUSE, PARAPUTHADAM,
CHERIYAMUNDAM PO., THIRUR, MALAPPURAM - 676 106.

Addl.5. MUJEEB, AGED ABOUT 34 YEARS,
S/O.HASAN, KALLUTHIRITHI HOUSE, CHUDALAPARAM,
CHERIYAMUNDAM P.O., THIRUR, MALAPPURAM - 676 106.

Addl.6. MUHAMMED SUHAIL, AGED ABOUT 19 YEARS,
S/O.MARIYAMMU, URIYATTIL HOUSE, CHUDALAPARAM,
CHERIYAMUNDAM P.O., THIRUR, MALAPPURAM - 676 106.

Addl.7. MOHAMMED RAFAEEK, AGED ABOUT 34 YEARS,
S/O.FATHIMA, KALLINGAL HOUSE, CHUDALAPARAM,
CHERIYAMUNDAM P.O., THIRUR, MALAPPURAM - 676 106.
(ADDL.R4 TO R7 ARE IMPEADED AS PER ORDER DATED 30.07.2015 IN
IA 11052/15)

R1-R3 BY DIRECTOR GENERAL OF PROSECUTION
R4 -R7 BY ADVS. SRI.C.M.MOHAMMED IQUBAL
SMT.ANJALI G.KRISHNAN
DETENUES ADV.SRI.M.M.ALIYAR.
SPECIAL GOVERNMENT PLEADER SMT.SREELATHA PARAMESWARAN

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

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

W.P.(Crl.)No.338 of 2015

Dated this the 4th day of August, 2015

JUDGMENT

C.K. Abdul Rehim, J

This writ petition is filed based on an allegation that the family of the petitioner's sister is missing from their residence, since 16.07.2015 onwards. The list of alleged detenues, mentioned in the writ petition include the petitioner's sister, her husband and their three minor children, aged 17 years, 14 years and 12 years respectively. Averments are to the effect that, when the petitioner made enquiries about the missing family he could gather some suspicious circumstances about their disappearance. Some Arabic religious books were traced out from their residence. Even though the 3rd respondent had registered a crime based on a complaint submitted by the petitioner, as Crime No.1115/2015 under Section 57 of the Kerala Police Act, no effective steps were taken to trace out the missing

persons, is the complaint. Apprehension is expressed to the effect that the missing persons are illegally detained in some unknown destination for the purpose of compelling them to convert to another religion. The petitioner had later impleaded the additional respondents 4 to 7, alleging that they are the persons behind missing of the alleged detenues and they are instrumental for their illegal detention. Under the above mentioned circumstances, the petitioner is seeking a writ of Habeas Corpus for directing production of the missing persons and to set them at liberty.

2. When the writ petition came up for admission we directed the police authorities to report the progress of investigation of the crime registered. Notice was also issued to respondents 4 to 7 through special messenger. Today when the case is taken up, learned Special Government Pleader appearing on behalf of respondents 1 to 3 submitted that, despite earnest efforts of investigation taken in the crime registered, the alleged

detenues could not be traced out. The additional respondents 4 to 7 entered appearance through counsel and submitted that those respondents have no connection at all in any manner with the missing of the alleged detenues. However, it is conceded that additional respondents 4 and 5 knows the alleged detenues and they have some transactions with him. But it is submitted that the additional respondents 6 and 7 have no connection at all with the family of the alleged detenues.

3. The alleged detenues are also personally present before this court on today. Counsel enters appearance for them as well. We interacted with Mr.Gopalan, the alleged detenu No.1, his wife and the three minor children, separately. Sri.Gopalan said that, he was employed in Gulf countries till about 10 years back. According to him, he get attracted to the faith of 'Islam' from the Gulf countries and since the last about 10 years he is living under that faith, following all rituals of the said

community. It is submitted that his wife and children have also decided to embrace 'Islam' and they went to an organization in Calicut for undergoing a course of study on the basic principles of Islam and its essential rituals. According to him, his family had left their place of residence on 16.07.2015 because of severe threat to life caused by the activists of an organization in relation with the conversion of religion. It is submitted that, since they left their place of residence they were living in a rented house near North Paravur in Ernakulam District. According to him the entire family members have only voluntarily converted to the religion of Islam and they are living under that faith on their own will and volition. According to him his family had converted not under any compulsion and that they are not living under any illegal confinement as alleged. When we interacted with the wife of Sri.Gopalan, Smt.Shoba and the minor children Miss.Priya, Miss.Pravisha and Master Prejish they also supported the entire version expressed by

Sri.Gopalan.

Under the above mentioned circumstances, this court is convinced that the alleged detenues are not under any illegal confinement as alleged in the writ petition. We are convinced that there exists no circumstances warranting interference of this court to issue a writ of Habeas Corpus, since the alleged detenues are not under any illegal detention.

This writ petition is disposed of by setting the alleged detenues at liberty to live at any place of their own choice.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge