

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(Crl.).No. 347 of 2015 (S)

PETITIONER(S) :

RAJU GEORGE, AGED 31 YEARS,
S/O.GEORGE, PALLIYADIPUTHUVAL, PUTHUKADU MURI,
PUTHUKADU P.O., CHAVARA, KOLLAM DISTRICT.

BY ADV. SRI.N.SUNIL JOSEPH

RESPONDENT(S) /RESPONDENTS :

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.
2. THE SUPERINTENDENT OF POLICE,
KOLLAM, KOLLAM DISTRICT, PIN - 691 001.
3. CIRCLE INSPECTOR OF POLICE,
ERAVIPURAM POLICE STATION, ERAVIPURAM, KOLLAM DISTRICT,
PIN - 691 011.
4. SUB INSPECTOR OF POLICE,
ERAVIPURAM POLICE STATION, ERAVIPURAM, KOLLAM DISTRICT,
PIN - 691 011.
5. JERON, AGED 52 YEARS,
S/O.THOBIA LAWRENCE, RESIDING AT KADAPPURAM PUTHUVAL,
FISHERMEN COLONY, THEKKUMBHAGAM CHERRI, THANNY,
ERAVIPURAM VILLAGE, ERAVIPURAM P.O., KOLLAM DISTRICT,
PIN - 691 011.

SENIOR GOVERNMENT PLEADER SRI. SHIBU JOSEPH
ADDL.DIRECTOR GENERAL OF PROSECUTION,
SRI.TOM JOSE PADINJAREKKARA,

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Cr1.) .No. 347 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

:

EXHIBIT P1. TRUE COPY OF THE COMPLAINT DATED 26.07.2015.

RESPONDENT(S) ' EXHIBITS

:

// True Copy//

P.A. to Judge

ss

C.K. ABDUL REHIM &

K. RAMAKRISHNAN, JJ.

W.P.(Crl.) No.347 of 2015

Dated this the 6th day of August, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is seeking a writ of Habeas Corpus for directing production of his wife Mrs.Jancy, who is alleged to be in illegal custody of her father, the 5th respondent herein.

2. Averments in the writ petition are to the effect that the marriage between the petitioner and the alleged detinue was solemnized on 12.09.2011 and a female child, now aged 3 years, was born out of the wedlock. It is alleged that the 5th respondent had taken the alleged detinue along with the child to his house and he is not permitting the alleged detinue to stay along with the petitioner, on one or other pretext. It is stated that the alleged detinue had filed O.P.No.606/2013 before the Family Court, Kollam seeking recovery of gold ornaments

and money. It is further mentioned that the said case was settled by the petitioner on paying a sum of ₹5,00,000/- to the alleged detainee. Allegation is to the effect that the 5th respondent is attempting to separate the petitioner and his wife and that he is not permitting the petitioner and the detainee to contact each other. On the above basis it is alleged that the 5th respondent is detaining the alleged detainee against her free will and this writ petition is filed on the basis of such an allegation.

3. The facts that the alleged detainee had left company of the petitioner during the year 2013, and that she is living separated from him in the parental house, and that she had filed a case before the Family Court seeking recovery of gold and money, which are admitted in this writ petition, itself would indicate that the alleged detainee is leading a separated life from her husband since the last more than 2 years. It is also evident that the petitioner had settled her claims by making payment of a sum of

₹5,00,000-. That being the position, we are of the considered opinion that the separated life of the spouses is only due to the matrimonial disputes. We do not find any materials to arrive even at a 'prima facie' conclusion that there exist any illegal detention by the 5th respondent. Further it is to be noted that the petitioner is approaching this court only after the lapse of more than two years since their separation due to the matrimonial disputes. Hence we are of the considered opinion that this is a fit case where the parties can approach the Family Court seeking appropriate remedy with respect to disputes arising out of the matrimony. We do not find any reason to invoke the jurisdiction vested on this court under Article 226 of the Constitution of India for issuance of any writ of Habeas Corpus.

Under the above mentioned circumstances, this writ petition is hereby dismissed. However, it is made clear that the petitioner as well as the alleged detainee are at

liberty to approach the Family Court having jurisdiction for redressel of grievances if any based on the matrimonial relation.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge