

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR.JUSTICE K.HARILAL**

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(Crl.).No. 353 of 2015 (S)

PETITIONER:

**SUDHA, AGED 47 YEARS,
D/O. OMANA, KUNNUMPURATHU VEETIL, T.C. 22/42,
THERAKOM THETTAKUDI, ATTUKAL, MANACAUD,
THIRUVANANTHAPURAM.**

BY ADV. SRI. ENOCH DAVID SIMON JOEL

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY DIRECTOR GENERAL OF POLICE,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**
- 2. SUB INSPECTOR OF POLICE,
FORT POLICE STATION, THIRUVANANTHAPURAM.**
- 3. SUB INSPECTOR OF POLICE,
THIRUVALLOM POLICE STATION, THIRUVANANTHAPURAM.**
- 4. ABY, AGED 20 YEARS,
S/O. ANILKUMAR, QUARTERS NO.1/ D 5,
AGRICULTURAL COLLEGE QUARTERS, VELLAYANI P.O.,
THIRUVANANTHAPURAM - 695 522.**
- 5. NIBI, AGED 18 YEARS,
S/O. ANILKUMAR, QUARTERS NO.1/ D 5,
AGRICULTURAL COLLEGE QUARTERS, VELLAYANI P.O.,
THIRUVANANTHAPURAM - 695 522.**
- 6. ANIL KUMAR, AGED 18 YEARS,
QUARTERS NO.1/ D 5, AGRICULTURAL COLLEGE QUARTERS,
VELLAYANI P.O., THIRUVANANTHAPURAM - 695 522.**
- 7. BEENA,
W/O. ANILKUMAR, QUARTERS NO.1/ D 5,
AGRICULTURAL COLLEGE QUARTERS, VELLAYANI P.O.,
THIRUVANANTHAPURAM - 695 522.**

**R1-R3 BY GOVERNMENT PLEADER SRI. ABDUL KAREEM
R5-R7 BY ADV. SRI. G.SUDHEER**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE FIR IN CRIME NO.407/2015 OF FORT POLICE STATION.

EXT.P2: TRUE COPY OF THE COMPLAINT SUBMITTED BY PETITIONER'S SON IN LAW BEFORE THE 3RD RESPONDENT.

EXT.P2(a): TRUE COPY OF THE COMPLAINT SUBMITTED BY PETITIONER'S SON IN LAW BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION.

EXT.P2(b): TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE KERALA STATE WOMEN'S COMMISSION.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

**P.R. RAMACHANDRA MENON
&
K. HARILAL, JJ.**

W.P. (CrI) No. 353 of 2015

Dated this the 23rd day of September, 2015

JUDGMENT

P.R. RAMACHANDRA MENON, J.

This petition, for a writ of Habeus Corpus, has been preferred by the mother of the detenue, seeking for immediate intervention of this Court to direct the respondents 1 to 3 to trace out the detenue and produce her before this Court, so as to save her from the alleged illegal custody of the respondents 4 to 7 or anybody acting under them.

2. The case projected by the petitioner is that the marriage of the daughter of the petitioner, aged 24 years was solemnized in the year 2007 and out of the wedlock with her husband, by name Ajeesh Kumar, two minor daughters aged 5 and 2 years were born. While they were

living together as above, there was some interaction between the detainee and the 4th respondent who was aged only 20 years and from 21.02.2015, daughter of the petitioner was found missing. This made the petitioner to approach the police by filing a complaint and reportedly she came to understand that the 4th respondent had abducted the detainee, which allegedly was in the consent and conveyance of the other respondents concerned.

3. According to the petitioner, the detainee has never gone on her own free will and was virtually forced to accompany the 4th respondent and she is under the illegal detention of the said respondent. When the matter came up for consideration before this Court on 10.08.2015, a direction was given to produce the detainee before the Court on 19.08.2015. On 19.08.2015 it was submitted by the learned Government Pleader that the detainee could not be found out despite their best efforts.

4. Notice was issued to respondents 4 to 7 who were

also directed to produce detenue before this Court, if she was in their custody. The District Police Chief (City Police Commissioner), Thiruvananthapuram was directed to take personal attention in the investigation of Ext. P1 Crime No.407/2015 giving other appropriate directions. Subsequently, on 07.09.2015, the matter was considered again by this Court, but there was no improvement in the position. Direction was given to District Police Chief, Thiruvananthapuram to personally monitor the investigation and to file a detailed report before this Court, indicating the progress in investigation. The police was also set at liberty to move the Court, if they could find out the detenue before the next date of posting, scheduled on 29.09.2015.

5. Today morning, a submission was made by the learned Government Pleader to the effect that the police, after taking strenuous efforts was able to find out the detenue and that she has been taken to custody from Palakkad on 21.09.2014. It is stated that she was produced

before the Judicial First Class Magistrate's Court, Thiruvananthapuram on the next day, where a crime registered by the Fort police station as Crime No.407/2015 is pending. After considering the facts and circumstances, the learned Magistrate directed the detinue to be sent to the Mahila Mandiram (under Social Justice Department of the State). It is from the said institution that the detinue has been produced before this Court today.

6. Heard both the sides in detail. The detinue, her husband, petitioner / mother and the 4th respondent are present before this Court. The children of the detinue are also present.

7. Based on the request made by the detinue and also by the learned counsel appearing for the petitioner, the detinue was permitted to have had interaction with the children for a short while. We interacted with the detinue, the 4th respondent, husband of the detinue and also the mother of the detinue. In the course of such interaction,

the detenue submitted it point blank, that she is never under illegal detention of anybody and that she had gone to Palakkad on her own will and is working there as an agent of a Direct Marketing Agency. She also expressed that she did not want to go back to the residence of the mother or her husband.

8. Interaction made by us revealed that the detenue had left on her 'free will' and not on the basis of any compulsion, force or coercion exerted by anybody. However, if any offence is involved under the relevant provisions of law, it is always open for the police to proceed with further steps for investigation and to take the proceedings to a logical conclusion. We only record that the detenue is not under the illegal detention of anybody and as such, nothing further requires to be considered. This writ of Habeus Corpus is dismissed accordingly.

The police is at liberty to take the detenue back to the 'Mahila Mandiram' from where she is produced today before

this Court. The further course and proceedings are left to be dealt with by the learned Magistrate before whom Ext.P1 FIR is pending.

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Sd/-
K. HARILAL
JUDGE