

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 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(Crl.).No. 360 of 2015 (S)

PETITIONER(S) /PETITIONER:

AMBILI, AGED 29 YEARS,
W/O. SAJAN, CHARUVILA PUTHEN VEEDU, KIZHAKKIDOM MUKKU,
KONNAYIL CHERRY, PARAVUR VILLAGE, KOLLAM TALUK,
KOLLAM DISTRICT, PIN-691 301.

BY ADV. SRI.V.VENUGOPALAN NAIR

RESPONDENT(S) /RESPONDENTS:

1. SOMAN, AGED 55 YEARS,
KUZHITHOPPIL VEEDU, THONNAKKAL, THONNAKKAL P.O.
MANGALAPURAM POLICE STATION LIMIT, 'RAJANI MANDIRAM',
CHIRYINKEEZHU TALUK,
THIRUVANANTHAPURAM DISTRICT-695 001.
2. SMITHA @ KOCHUMOL,
NIECE OF SOMAN, KUZHITHOPPIL VEEDU,
THONNAKKAL, THONNAKKAL P.O.,
MANGALAPURAM POLICE STATION LIMIT, 'RAJANI MANDIRAM',
CHIRYINKEEZHU TALUK,
THIRUVANANTHAPURAM DISTRICT-695,001.
3. THE SUB INSPECTOR OF POLICE
PARAVUR POLICE STATION, KOLLAM DISTRICT - 691 001.
4. THE CITY POLICE COMMISSIONER,
KOLLAM-691 001.
5. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM 695 001.

R2 BY ADV. SRI. A. CHANDRA BABU
GOVERNMENT PLEADER SRI. ASAF ALI,
DIRECTOR GENERAL OF PROSECUTION

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Crl.) .No. 360 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

:

EXHIBIT P1- A TRUE COPY OF THE FIR IN 1713/14 DTD 2-10-2014 OF
PARAVUR POLICE STATION OF KOLLAM DISTRICT.

RESPONDENT(S) ' EXHIBITS

:NIL

// True Copy//

P.A. to Judge

ss

C.K. ABDUL REHIM &

K. RAMAKRISHNAN, JJ.

W.P.(CrI.) No.360 of 2015

Dated this the 18th day of August, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is approaching this court seeking a writ of Habeas Corpus for directing production of the corpus of her husband Sri.Sajan, based on an allegation that he is being illegally detained by respondents 1 and 2, and to set him at liberty.

2. The petitioner and the alleged detainee got married 8 years back and they are having two children born out in the wedlock. It is alleged that the petitioner's husband developed an illicit intimacy with the 2nd respondent. According to the petitioner, her husband is missing from 1st April, 2014 onwards. It is further alleged that, on the next day he was seen travelling in a motor cycle along with the 2nd respondent. A case was registered with respect to the missing of the petitioner's husband as Crime

No.1713/2014 of Paravoor police station, on 02.10.2014 itself, under Section 57 of the Kerala Police Act. But it is alleged that the investigation is not properly conducted and no effective attempt is made to trace out the alleged detainee. It is on the basis of a specific allegation that the alleged detainee is under illegal confinement of respondents 1 and 2, this writ petition is filed.

3. Pursuant to notice issued from this court, the 2nd respondent appeared through counsel. It is submitted that the 2nd respondent is already married and having a child. It is said that the 2nd respondent is living along with her husband and the child. According to the 2nd respondent, she does not know anything about the present whereabouts of the husband of the petitioner.

4. On the basis of directions issued by this court, the Government Pleader on instructions reported that, despite earnest efforts made to trace out the missing person, Sri.Sajan, the police authorities could not get any

valid clue. According to the 3rd respondent, the alleged detainee, Sri.Sajan is not under any illegal confinement of respondents 1 and 2 as alleged. Investigation so far conducted revealed that the respondents 1 and 2 have no knowledge about the missing person.

5. From the circumstances as narrated above, this court do not find any materials to arrive at a conclusion that the husband of the petitioner is under illegal detention of respondents 1 and 2. It is true that the husband of the petitioner is missing since 01.04.2014 onwards and despite registration of Ext.P1 case and its investigation the police authorities could not trace out the missing person. It is for respondents 3 to 5 to take appropriate steps to intensify the investigation in order to trace out the missing person. We direct the 4th respondent to bestow personal attention to the investigation of Ext.P1 case. The investigation of the case will be entrusted with any responsible higher officer, if found necessary and all earnest efforts should be taken to

trace out the missing person, at the earliest possible.

The above writ petition is disposed of subject to the directions as mentioned above. It is made clear that the petitioner will be at liberty to take appropriate steps before appropriate court/forum, if the investigation is not yielding in any positive result, within a reasonable time.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge

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