

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(Crl.).No. 363 of 2015 (S)

PETITIONER:

**MUHAMMED HUSSAIN,
AGED 54 YEARS, S/O. AHAMMED KHAN,
RESIDING AT ZAM ZAM, AZAHAKULAM
VIZHINJAM P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SMT. MAJIDA.S
SRI. AJIKHAN.M**

RESPONDENTS/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
HOME DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. SUB-INSPECTOR OF POLICE
KOVALAM POLICE STATION,
THIRUVANANTHAPURAM-695001.**
- 3. NAYEEM SHAH, AGED 27 YEARS
S/O. LATE MOHAMMED IBRAHIM
RESIDING AT SHIMNA MANZIL, THEATER JUNCTION
HARBAR ROAD, VIZHINJAM-695002.**
- 4. SHAREEKATH BEEVI
W/O. LATE MOHAMMED IBRAHIM
RESIDING AT SHIMNA MANZIL, THEATER JUNCTION
HARBAR ROAD, VIZHINJAM-695002.**

**R1 & R2 BY ADV. SRI. K.I. ABDUL RASHEED, ADGP &
ADV.SRI. P.S.ABDUL KAREEM, GOVT. PLEADER.**

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

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

W.P (Crl.) No. 363 OF 2015

DATED THIS THE 17th DAY OF AUGUST, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is the father of the alleged detainee, Miss.Sumaiya Hussain. This petition is filed seeking a writ of Habeas Corpus for directing production of the alleged detainee, based on an allegation that she is under illegal confinement of respondents 3 & 4, and to set her at liberty. Averments in the writ petition are that, the 4th respondent is the wife's sister of the petitioner and the 3rd respondent is the son of the 4th respondent. It is stated that the 3rd respondent had developed intimacy with the alleged detainee, which when noticed by the parents was restrained, because the 3rd respondent will come within the prohibited degree of relationship with the alleged detainee. But it is alleged that on 01-08-2015 the alleged detainee was abducted by the 3rd respondent from the college where she

is studying and since then she is being illegally detained. It is stated that, based on a complaint submitted by the petitioner before the 2nd respondent a case was registered with respect to missing of the alleged detainee, as Crime No.856/2015 of Kovalam Police Station. Alleging that the police authorities are not taking any effective steps to trace out the alleged detainee and also alleging that the 3rd respondent is illegally detaining the alleged detainee, this writ petition is filed.

2. When the above writ petition came up for consideration on 13-08-2015 this court directed the Government Pleader to get instructions. Today, the learned Special Government Pleader (Women and Children) appearing on behalf of respondents 1 & 2 made submissions on the basis of instructions that, the crime registered based on the intimation with respect to missing of the alleged detainee was investigated along with another case registered as Crime No.888/2015 based on intimation with respect to missing of the 3rd respondent. The missing persons were traced out on 13-08-2015 from Kasaragod. It

is stated that the 3rd respondent was produced in crime No.888/2015 before the Judicial First Class Magistrate Court-I, Neyyattinkara and the learned Magistrate had permitted him to go along with his mother. The alleged detainee herein was produced before the said Magistrate in the other case. Since there was a direction to produce her before this court, she was entrusted to police custody and admitted at 'Nirbhaya Shelter Home' under orders of the Magistrate, with direction to produce her before this court on today.

3. Today when the case is taken up the alleged detainee, Miss.Sumaiya Hussain was produced. When we interacted with the alleged detainee she admitted that she had left from the college along with the 3rd respondent, on 01-08-2015. It is also said that, a marriage was solemnized earlier under the Special Marriage Act. But she alleges that the marriage was registered on the basis of a fake address furnished by the 3rd respondent. However the alleged detainee had specifically expressed her desire to go along with the petitioner. According to her she was not under any

illegal confinement as alleged and that she had gone along with the 3rd respondent on her own wish and will.

4. Since it is found that the alleged detainee is not under any illegal confinement at present and since the alleged detainee had expressed her desire to go along with the petitioner, this writ petition is disposed of by setting the alleged detainee, Miss.Sumaiya Hussain at liberty to go along with the petitioner to her parental house.

5. We make it clear that we have not expressed anything about the validity of the marriage said to have been undergone by the alleged detainee and the 3rd respondent. It will be left open to the parties to seek appropriate remedy with respect to dispute if any, based on such marriage, before the appropriate forum.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge