

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(Crl.).No. 365 of 2015 (S)

PETITIONER:

JAYASREE AGED 51 YEARS,
D/O. SANKARAN, PUTHIYELATH VEEDU, MADAVANA
ERIYADU PO, KODUNGALLUR, THRISSUR DISTRICT
PIN:682 666, PRESENTLY RESIDING AT PARUSSERY VEEDU
VADAKKEKARA, ERNAKULAM-683522.

BY ADVS.SRI.K.J.MOHAMMED ANZAR
SRI.DILEEP D BHAT

RESPONDENTS:

1. THE DISTRICT POLICE CHIEF & SUPERINTENDENT OF POLICE
THRISSUR RURAL, CIVIL STATION, THRISSUR DISTRICT
PIN:680 003.
2. THE STATION HOSUE OFFICER
KODUNGALLUR POLICE STATION, KODUNGALLUR
THRISSUR DISTRICT, PIN:680307.
3. SATHYAN, AGED 59 YEARS
S/O SANKARAN, PUTHIYELATH VEEDU, MADAVANA
ERIYADU P.O., KODUNGALLUR
THRISUR DISTRICT, PIN:680666.
4. PRIYA PRAKASAN
W/O PRAKASAN, PUTHIYELATH VEEDU, MADAVANA
ERIYADU POST KODUNGALLUR, THRISSUR DISTRICT
PIN:680665.
5. BABU, AGED 54 YEARS
S/O SANKARAN, VETTIYATTIL HOSUE
VELUTHAKADAVU NEAR SUPREME BAKERY, PANANGAD
KODUNGALLUR TALUIK, THRISSUR DISTRICT, PIN:680655.

6. SAJEEVAN, AGED 48 YEARS

S/O SANKARAN, PUTHIYELATH VEEDU, MADAVANA ERIYADU POST
KODUNGALLUR TALUK, THRISSUR DISTRICT, PIN:680666.

R1-R2 BY SR.GOVERNMENT PLEADER SRI.SHIBU JOSEPH WITH ADDL.DIRECTOR
GENERAL OF PROSECUTION SRI. TOM JOSE PADINJAREKKARA.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 21-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 365 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE FIR DATED 26.8.2014 IN CRIME NO.2714/2014 OF
KODUNGALLUR POLICE STATION.

EXHIBIT P2: TRUE COPY OF THE JUDGMENT DATED 30.9.2014 IN WPC NO.23759/2014 OF THE
HON'BLE HIGH COURT OF KERALA.

EXHIBIT P3 TRUE COPY OF THE COMPLAINT DATED 12.8.2015 SUBMITTED TO THE SUB
INSPECTOR OF POLICE, KODUNGALLUR POLICE STATION, WITH COPY TO THE 1ST RESPONDENT.

EXHIBIT P4: TRUE COPY OF THE RECEIPT OF ACKNOWLEDGMENT DATED 13.8.2015 ISSUED BY
THE 2ND RESPONDENT ON SUBMISSION OF EXT.P3.

RESPONDENTS' EXHIBITS:NIL

/TRUE COPY/

P.S TO JUDGE

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

.....
W.P.(CrI)No.365 of 2015

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Dated this the 21st day of August, 2015.

JUDGMENT

Abdul Rehim,J:

The petitioner herein is the daughter of Sri. Sankaran, aged 87 years and Smt. Kamalakshi Sankaran, aged 82 years (referred hereinafter as the alleged detenues). This writ petition is filed seeking direction for production of corpus of the alleged detenues and to set them at liberty, based on the allegation that they are illegally detained against their will by respondents 3 to 6.

2. The alleged detenues have five children, including the petitioner. Respondents 3, 5 and 6 are their sons and the 4th respondent is the wife of another son now working abroad. It is stated that brothers of the petitioner and their wives are keeping enmity towards the petitioner, because the alleged detenues are showing much love, care and affection towards her, she being the only daughter. On that background, the petitioner was prevented from visiting the alleged detenues on several occasions which lead her to file an earlier writ petition

this court seeking police protection. In Ext.P2 judgment this Court observed that, in the event of any obstruction caused or any offence is committed against the petitioner, the police authorities shall look into the same and shall take appropriate action. It is alleged that, despite Ext.P2 judgment, obstruction against the petitioner continued on several occasions. The petitioner, her husband and son were prevented to see the alleged detenues. But due to timely intervention and help of the 2nd respondent, they could able to visit the parents. On 6.8.2015, the petitioner and her family members were prevented from entering the ancestral house. On intimation the 2nd respondent came to the spot and made arrangements to the petitioner to see the parents and to spend some time with them. But, when the police returned from the seen, the respondents 3 and 5 took away the alleged detenues from the house in a vehicle. Later, on enquiry it is revealed that the alleged detenues were taken to several places of undisclosed destinations and they were denied of proper food, medicine and other care. They were not permitted to go outside the house and nobody was allowed to see them, in violation of the

terms of Ext.P2 judgment. It is alleged that, despite Ext.P3 complaint submitted before the 2nd respondent, no effective steps were taken to prevent the illegal actions on the part of respondents 3 to 6. Under the above mentioned circumstances, this writ petition is filed based on a specific allegation that the alleged detenues are illegally kept under confinement against their free will.

3. When the case came up for admission on 17.8.2015, we directed the Government Pleader appearing on behalf of respondents 1 and 2 to get instructions with respect to the actions if any taken on the basis of Ext.P3 complaint. The 2nd respondent was directed to conduct an enquiry with respect to the alleged illegal detention and also directed to get an independent statement of the alleged detenues recorded, not in the presence of any of the family members.

4. Today when the case is taken up, learned Government Pleader appearing for respondents 1 and 2 had produced a statement recorded by the 2nd respondent from one among the alleged detenues, the mother of the petitioner Smt. Kamalakshi, aged 82 years. The statement was recorded at

the house of the 4th respondent. In the statement, it is mentioned that, she along with his husband had come to that house on 9.8.2015. It is said that the father of the petitioner, Sri. Sankaran is suffering from memory loss. Learned Government Pleader on instructions from the second respondent submitted that, the father is not in a position to give any statement. According to Smt. Kamalakshi, the alleged detenues came to the house of the 4th respondent for participating in a funeral ceremony of one of the relatives and it is decided that they will return to the ancestral house after consulting a Doctor. It is mentioned that there exists dispute between the petitioner and her brothers regarding right over the properties in the name of Sri. Sankaran. It is further mentioned that whenever the petitioner came to the ancestral house for seeing the alleged detenues, there used to have quarrel between her and the sons and their wives. According to the alleged detenues, they are desirous of seeing the petitioner and to have her care and protection. She said that she is not sure as to whether her husband had assigned any property to any of the children. But it is mentioned in the statement that, on

19.8.2015 the 3rd respondent had informed her that documents have already been executed by Sri. Sankaran with respect to assignment of the properties. But Smt. Kamalakshi is not sure about any such transaction. She said that Sri. Sankaran was taken on two occasions from the house stating that he is taken for giving treatment. According to her, Sri. Sankaran is suffering from loss of memory and he is not in a position to assert with respect to any transactions of the property. However, she said that both of them will go back to the ancestral house within ten days. It is specifically mentioned that at present the alleged detainees are staying in the house of the 4th respondent at their own wish and will. She had also expressed the desire that all the children should to live in cordial terms.

5. From the statement mentioned as above, this Court do not find materials to arrive at any conclusion that the alleged detainees are illegally detained by respondents 3 to 6 against their free will. Hence, we do not find any circumstances prevailing to invoke jurisdiction vested under Article 226 for issuing any writ of habeas corpus. However, we notice

that the petitioner will be at liberty to take appropriate steps in view of Ext.P2 judgment, in case she is prevented in any manner from visiting the alleged detenues. Needless to observe that, if any such approach is made, the 2nd respondent shall take necessary steps to see that the terms contained in Ext.P2 judgment is complied with.

The writ petition is disposed of subject to the above observations.

Sd/-
C.K. ABDUL REHIM, JUDGE.

Sd/-
K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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