

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH**

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

WP(Crl.).No. 382 of 2015 (S)

PETITIONER:

**EBIN ELDHOSE,
AGED 25 YEARS, S/O.P.M. ELDHOSE,
PARAMBATH HOUSE, EAST VAZHAPPALLY
NIRAPPU, MUVATTUPUZHA - 686 673.**

**BY ADVS.SRI.SAIBY JOSE KIDANGOOR
SRI.BENNY ANTONY PAREL
SRI.MATHEWS RAJU
SRI.R.LAIJU
SRI.P.M.MOHAMMED SALIH**

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF HOME AFFAIRS
THIRUVANANTHAPURAM - 695 001.**
- 2. SUB INSPECTOR OF POLICE,
MUVATTUPUZHA POLICE STATION, ERNAKULAM - 683 106.**
- 3. JOSE (INITIAL UNKNOWN)
VADAKKEKARA HOUSE, EAST VAZHAPPALLY,
NIRAPPU, MUVATTUPUZHA - 686 673.**
- 4. MOLY JOSE,
VADAKKEKARA HOUSE, EAST VAZHAPPALLY,
NIRAPPU, MUVATTUPUZHA - 686 673.**

R1 & R2 BY ADV. SRI. EGGY N. ELIAS, GOVERNMENT PLEADER.

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
14-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE CERTIFICATE OF MARRIAGE ISSUED BY THE ST. MARY'S JACOBITE SYRIAN CHURCH, KARAKKUNNAM.

EXHIBIT-P2- TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER DATED 21/08/2015.

EXHIBIT-P3- TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT NO. PETITION NO. 12296/2015 DATED 21/08/2015.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

**C.K. ABDUL REHIM, J.
&
MARY JOSEPH, J.**

W.P (Crl.) No. 382 OF 2015

DATED THIS THE 14th DAY OF SEPTEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

This writ petition is filed based on an allegation that the petitioner's wife, Mrs. Sinat Jose is illegally detained by respondents 3 & 4, who are her parents. It is stated in the writ petition that the marriage between the petitioner and the alleged detainee was solemnised on 18-01-2015, as per religious rites and ceremonies. The petitioner is working in Bahrain and the alleged detainee was employed as a Nurse in Hyderabad. It is alleged that respondents 3 & 4 compelled the alleged detainee to leave the company of the petitioner and to reside with them after a week of their marriage. The petitioner left to Bahrain on 05-03-2015 to rejoin duty, on completion of his leave period. The alleged detainee left to Hyderabad on 07-03-2015. It is admitted that there occurred slight frictions between the petitioner's parents and the

alleged detainee regarding mortgage of her ornaments. Thereafter the dispute became worse resulting in the alleged detainee abusing the parents of the petitioner. The petitioner came to know about such development only after his return from Gulf. It is stated that, the petitioner came to know that parents of the alleged detainee are not permitting her to interact with the petitioner. When the petitioner came back on leave he again tried to contact the alleged detainee. But the 3rd respondent had abused him over telephone and informed that he is desirous of getting divorce of his daughter. It is stated that, on 11-08-2015 the matter was brought to notice of the Sub Inspector of Police, Muvattupuzha through a complaint. The respondents 3 and 4 expressed their desire to get a divorce. But the detainee held the hand of the petitioner and wept and hugged the petitioner, despite the 3rd respondent shouted and threatened her. The petitioner has not seen the detainee since then. He could not have any access to her. Despite several attempts the petitioner was unable to get the alleged detainee in contact, eventhough he made such

attempts through submitting complaints before the police authorities at Muvattupuzha. It is based on the specific allegation that the alleged detainee is under illegal confinement of respondents 3 & 4 against her free will, this petition is filed seeking a writ of Habeas Corpus for directing production of the alleged detainee and to set her at liberty.

2. When the case came up for admission on 07-09-2015 this court directed the 2nd respondent to get an independent statement of the alleged detainee recorded through a woman police officer deputed for the said purpose. Such statement was directed to be recorded not in the presence of any of the family members of respondents 3 & 4.

3. Today, when the case is taken up, the learned Government Pleader had produced a statement of the alleged detainee recorded as directed by this court, along with a report submitted by the 2nd respondent. It is mentioned in the report of the 2nd respondent that the alleged detainee, Mrs. Sinat Jose had left the family of the

petitioner due to some difference of opinion in the matrimonial home. It is stated that the petitioner had approached the police for redressal of his grievance. But inspite of all earnest efforts taken, no reconciliation or re-union could be possible and the alleged detainee went along with her parents.

4. In the statement recorded from the alleged detainee it is mentioned that, the marriage between the petitioner and the alleged detainee was solemnized on 18-10-2015 and it was an arranged marriage fixed between the two family members. According to her, on the 4th day after the marriage there arose some dispute in the house of the petitioner on the basis of some allegations raised by the family members of the petitioner. Thereafter there were exchange of words between the family members of the spouses. It is stated that she went to Hyderabad on 02-02-2015 after entrusting her ornaments with the mother of the petitioner. Thereafter the petitioner went to Gulf. On 15-06-2015 she returned from Hyderabad and went to the petitioner's house. But it was realized that the gold

ornaments were pledged by the parents of the petitioner. They have promised to get the ornaments redeemed within a period of one month. But they failed to do so. Therefore a complaint was submitted before the police authorities. But since the petitioner was not available, no decision could be taken on the basis of such complaint. Thereafter the alleged detainee went to the house of her parents and resided therein. After sometime she left to Delhi on 18-08-2015 to join her sister to seek employment in a hospital therein. Since then she continued in Delhi under an employment. It is only on 13-09-2015 she returned from there. It is specifically mentioned in the statement that she is not under any illegal confinement of the family members or anybody else. According to her she went to Delhi on her own will, in search of an employment.

5. From the facts as mentioned above it is evident that there exists matrimonial disputes between the petitioner and the alleged detainee. Since it is brought out from the statement that the alleged detainee is not under any illegal confinement against her free will, this court is

not in a position to interfere in the matter by invoking powers vested under Article 226 of the Constitution of India for issuing any writ of Habeas Corpus. It will be left open to the parties to the marriage to redress their grievance if any regarding the matrimonial disputes, before the appropriate court/forum. Having found that the alleged detainee is not under any illegal confinement, this writ petition is liable to be dismissed.

6. Therefore writ petition is hereby dismissed, reserving liberty of the parties to the marriage to seek appropriate remedy with respect to matrimonial disputes.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

AMG

True copy

P.A. to Judge