

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR. JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

W.P.(Crl.). No. 398 of 2015 (S)

PETITIONER:

**SHINY GEORGE, W/O.SUNANTHALAL,
SAAWARIYA HOUSE, IYYAD (PO), UNNIKKULAM (VIA),
THAMARASSERY, KOZHIKODE DISTRICT, PIN-673 574.**

BY ADV. SRI. C.R.SIVAKUMAR

RESPONDENT(S):

- 1. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. THE SUPERINTENDENT OF POLICE (RURAL),
OFFICE OF THE SUPERINTENDENT OF POLICE,
KOZHIKODE DISTRICT, PIN - 673 001.**
- 3. THE SUPERINTENDENT OF POLICE (RURAL),
OFFICE OF THE SUPERINTENDENT OF POLICE,
WAYNAD DISTRICT, PIN - 673 592.**
- 4. THE CIRCLE INSPECTOR OF POLICE,
BALUSSERY POLICE STATION,
KOZHIKODE DISTRICT, PIN - 673 612.**
- 5. THE SUB INSPECTOR OF POLICE,
BALUSSERY POLICE STATION,
KOZHIKODE DISTRICT, PIN - 673 612.**
- 6. THE CIRCLE INSPECTOR OF POLICE,
SULTHAN BATHERY POLICE STATION,
WAYNAD DISTRICT, PIN - 673 592.**
- 7. THE SUB INSPECTOR OF POLICE,
SULTHAN BATHERY POLICE STATION,
WAYNAD DISTRICT, PIN - 673 592.**

**8. EDAKUDY PADMINI, W/O. UNNI,
KAKKATTUMMEL VEEDU, SIVAPURAM,
IYYAD DESOM, KOZHIKODE DISTRICT, PIN- 673 612.
NOW RESIDING AT C/O. SUNDAR RAJ, POLICE QUARTERS,
SULTHAN BATHERY POLICE STATION, SULTHAN BATHERY,
WAYNAD DISTRICT, PIN - 673 592.**

**9. SUNITHA SUNDAR RAJ,
POLICE QUARTERS, SULTHAN BATHERY POLICE STATION,
SULTHAN BATHERY, WAYNAD DISTRICT, PIN -673 592.**

**10.SUNDAR @ SUNDAR RAJ,
POLICE QUARTERS, SULTHAN BATHERY POLICE STATION,
SULTHAN BATHERY, WAYNAD DISTRICT, PIN - 673 592.**

**R1 - R7 BY SPECIAL GOVERNMENT PLEADER WOMEN & CHILDREN
SMT. SREELATHA PARAMESWARAN**

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
25-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE TRUE COPY OF THE PAGE CONTAINING DEPARTURE AND ARRIVAL SEAL IN THE PETITIONER'S PASSPORT NO. M4991111.
- EXT.P2: THE TRUE COPY OF THE M.C. NO.77/2015 DATED 08.09.2015 OF JFCM-II, PERAMBRA.
- EXT.P3: THE TRUE COPY OF THE ORDER DATED 08.09.2015 IN CMP NO.1948/2015 IN M.C. NO.77/2015 OF JFCM-II, PERAMBRA.
- EXT.P4; THE TRUE COPY OF THE COMPLAINT DATED 15.09.2015.
- EXT.P5: THE TRUE COPY OF THE O.S. NO.293/2015 DATED 15.09.2015 ON THE FILE OF THE MUNSIFFS COURT, KOYILANDY.
- EXT.P6: THE TRUE COPY OF THE INJUNCTION ORDER IN I.A. NO.1203/2015 IN O.S. NO.293/2015 DATED 15.09.2015.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

**C.K. ABDUL REHIM
&
SHAJI P. CHALY, JJ.**

W.P.(CrI). No. 398 of 2015

Dated this the 25th day of September, 2015

JUDGMENT

Shaji P. Chaly, J.

This petition is filed seeking a writ of Habeas Corpus for commanding the respondents 1 to 7 to produce the petitioner's husband, Sri. Sunanthlal and her son Master. Krish before this court and to release the said persons from the illegal confinement or detention.

2. When the case came up for admission before this Court on 17.09.2015, learned Special Government Pleader was directed to get instructions. Today, written instructions received from the concerned Police Official was produced before this court.

3. Brief facts for disposal of the writ petition are as follows:

The petitioner and the alleged detainee, Sri. Sunanthlal got married on 12.06.2006 and both of them were residing together. They have purchased properties together and were residing in the residential building constructed therein. It is contended that the petitioner became a chronic Rheumatic Arthritic patient and she was advised to take treatment at an Ayurveda Hospital at Chenganoor. Accordingly, in order to undergo the treatment, she had reached Chenganoor on 17.06.2015. Thereafter on the advise of Doctors she was undergoing treatment from 25.07.2015 onwards for 20 days.

4. Meanwhile, the detainee and the son of the petitioner came back from Gulf during school vacation. When she was discharged from the hospital, she came to know that her residence was locked and whereabouts of her husband and son was not known. Thereupon she went back to Kuwait. Later she came to know that the alleged detainee

and child had vacated the flat at Kuwait and left the place after resigning his job in Kuwait. The petitioner came back to Kerala on 03.09.2015 and while reaching her residence at Calicut, she could not enter the house. Accordingly she filed M.C. No.77/2015 before the Judicial First Class Magistrate Court-II, Perambra on 08.09.2015 and obtained a residence order, as per Section 23(2) of Protection of Women From Domestic Violence Act.

5. It is contended that petitioner's husband is under illegal custody of respondents 8 to 10. It is seeking production of her husband and her son, this writ petition is preferred.

6. Heard; learned counsel for the petitioner and learned Government Pleader.

7. Petitioner contended that her husband and the child are under illegal custody of respondents 8 to 10. It is further alleged that, since respondent No.10, who is the

brother-in-law of her husband, is a Civil Police Officer, he is managing affairs to the detriment of the petitioner. On the other hand, learned Government Pleader on instructions submitted that the Superintendent of Police went to the residence of the 10th respondent, wherein the detainee is residing, and took his statement. He stated that, himself and the child are not under any illegal confinement and is living freely and happily at his free will and volition. We are satisfied with the said statement produced by the police, in order to arrive at a conclusion that there is no illegal confinement. Therefore we are of the considered opinion that this is not a fit case where a writ of Habeas Corpus can be issued for production of the alleged detainee and son of the petitioner before this Court.

8. The petitioner will be at liberty to workout her remedies before appropriate court, seeking necessary reliefs. In that view of the matter, we dismiss this writ

petition leaving open liberty to the petitioner to approach the appropriate court seeking necessary reliefs.

Sd/-
C.K. ABDUL REHIM
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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