

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 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(Crl.).No. 403 of 2015 (S)

PETITIONER:

**RAJITHA B.,
AGED 30 YEARS, W/O. PRAMOD KUMAR S. @ PREJIL KUMAR,
RAJITHA BHAVAN, ARCHAL, NEDIYARA P.O., KOLLAM DISTRICT.**

**BY ADVS.SRI.MANOJ RAMASWAMY
SMT.SANJANA R.NAIR
SMT.V.SREEJA**

RESPONDENTS:

- 1. THE DISTRICT POLICE CHIEF
KOLLAM RURAL DISTRICT, KOTTARAKKARA-691602.**
- 2. THE DEPUTY SUPERINTENDENT OF POLICE,
PUNALUR SUB DIVISION, PUNALUR-691305.**
- 3. SUB INSPECTOR OF POLICE,
PUNALUR POLICE STATION,
PUNALUR-691 305.**
- 4. REJESH KUMAR,
R.L. BHAVANAM, PAVUMBA P.O.,
VAZHAPALLI COLONY, KARUNAGAPALLY-690574.**

**R1-R3 BY ADV. SMT. SREELATHA PARAMESWARAN, (SPL. G.P. FOR WOMEN
AND CHILDREN)**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 12-10-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS

EXT- P1- TRUE COPY OF THE COMPLAINT DATED 03-06-2015 SUBMITTED
BEFORE THE 3RD RESPONDENT.

EXT- P2- TRUE COPY OF COMPLAINT DATED 14-07-2015 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

W.P (Crl.) No. 403 OF 2015

DATED THIS THE 12th DAY OF OCTOBER, 2015

J U D G M E N T

Mary Joseph, J:

The petitioner, who is a hapless lady is approaching this court seeking a writ of Habeas Corpus for directing production of the body of her husband, Sri. Pramodkumar @ Prejilkumar, based on the allegation that he is being kept under illegal detention by the 4th respondent.

2. The allegation in the writ petition are to the following effect. The petitioner along with her husband and son aged 11 years were residing at Nedyara in Kollam District. Her husband was working as 'Melsanthi' in 'Mulamthadam Mutharaman Kovil' at Punalur. The 4th respondent, a friend of her husband and a native of Karamana, along with a lady named Smt. Krishakumari had enticed her husband by misrepresenting that wealth to a larger extent would be amassed by him on doing black magic. The 4th respondent has also apprised the petitioner

that the goal could be achieved easily on breaking down his marital tie with the petitioner. He had introduced the lady named Krishnakumari to the husband of the petitioner and made him believe that the goal could easily be achieved by maintaining a relationship with that lady. While so, during the month of March 2015 a 'Sapthaham' was conducted by the husband of the petitioner at Kayamkulam. That helped him to strengthen his intimacy with the above said lady. On 02-06-2015, the petitioner's husband had gone from his house at Tholikode to Punalur for purchasing some materials for the purpose of 'Pooja'. He did not returned thereafter. Upon noticing that her husband is missing, the petitioner lodged Ext.P1 complaint before the 3rd respondent, on 03-06-2015 itself. On that day the petitioner got information over her phone from one Villur Biju that her husband is with the 4th respondent and smt. Krishnakumari at Mavelikkara. Since no response was obtained from the 3rd respondent, she approached the 2nd respondent and lodged Ext.P2 petition before him. The petitioner came to know then that a complaint was lodged by the husband of

Smt .Krishnakumari before the 3rd respondent at Koodal police station regarding missing of his wife and a case was registered as Crime No. 469/ 2015 and investigation is progressing. Since the investigation conducted by the respondents has not yielded any fruitful result and it to the knowledge of the petitioner was moving at a low pace, she approached the 1st respondent with a prayer to expedite the investigation, upon which strict direction was given by him to the 2nd respondent. Whereabouts of the petitioner's husband has not been made known to her by the respondents till date. The petitioner apprehends highhanded influence and interception by the 4th respondent in the investigation process. It is in the said circumstances of helplessness that the petitioner has approached this court seeking exercise of writ jurisdiction in the matter.

3. When the writ petition came up for admission on 29-09-2015 learned Government Pleader took notice for respondents 1 to 3. It was submitted by the learned Government Pleader on the basis of the instructions received from the 3rd respondent that, no complaints as per

Ext.P1 or P2 have been received at the Punalur Police Station, as alleged by the petitioner. However, the petitioner had filed an additional affidavit affirming that the complaints in the form of Exts.P1 & P2 have been lodged at the respective police station.

4. Learned Government Pleader on instructions submitted before this court that, the investigation conducted in Crime No. 469/15 of Koodal Police Station had revealed information that the husband of the petitioner had eloped with a lady named Smt. Krishnakumari, who is the wife of one Mr. Sivankutty. It is also submitted that the investigation has been intensified on the basis of the information received. Therefore this court directed the learned Government Pleader to get instructions from the Station House Officer, Koodal Police Station regarding progress of the investigation in Crime No.469/2015. The Station House Officer, Koodal Police Station was also directed to take all earnest efforts to trace out the missing persons and to produce them before this court.

5. On 08-10-2015 when the case came up for consideration before this court, a statement of the Station House Officer, Koodal Police Station was submitted by the learned Government Pleader. It is reported that a crime was registered at Koodal Police Station as Crime No.469/2015 on the basis of the statement of one Sri. Sivankutty, the husband of Smt. Krishnakumari, to the effect that the latter was missing since 02-06-2015. It is also stated that the missing lady was in love with the husband of the petitioner herein, Sri. Pramod Kumar. It is also reported that both of them have absconded together from their respective residences on 02-06-2015. It is further revealed that the investigation of the case is under progress and crime cards have already been issued to all the Police Stations in the State. It is also mentioned in the report that, since the mobile phones used by the parties were remaining switched off, the avenues of investigation in that respect remained shut down.

6. It is noticed that despite registration of the crime on 03-06-2015, sufficient progress was not achieved in the

investigation process. Eventhough investigation was pursued by a special team constituted at Koodal Police Station, it did not yield in any positive results. In the said circumstances, this court directed the 1st respondent, the District Police Chief, Kollam to personally look into the matter and to monitor the investigation. The 1st respondent was also directed to take appropriate decision with respect to the entrustment of investigation with the special team, if any constituted for the purpose. The 1st respondent was also directed to monitor the investigation and to intensify the same to trace out the missing persons at the earliest possible opportunity. On that basis the case is adjourned to 26-10-2015. The learned Government Pleader was also given liberty to make motion for consideration of the case on any date if the missing persons were traced out and brought to this court.

7. This day, upon submission made by the learned Government Pleader that the missing persons were already traced out and is being produced before this court, the case is taken up for consideration. The petitioner is also

personally present before this Court. The alleged detainee was produced. We interacted with the alleged detainee who is the husband of the petitioner. He informed us that he had left his home alongwith one lady named KrishnaKumari voluntarily and stayed at 'Shabari Bakthanandha Madam', Moolamattom. On 09-10-2015, they were produced before the Judicial First Class Magistrate Court, Pathanamthitta and upon his statement that he had gone along with the said Krishnakumari on his own will, the learned Magistrate has closed the proceedings in Crime No.469/2015 and set him at liberty. The lady Krishnakumari was sent for stay arranged by the 'Vanitha Helpline' for 2 days. It is therefrom that the lady is produced before this court along with the alleged detainee.

8. We have also interacted with Smt. Krishakumari. It is stated by the lady that her husband, Sri. Sivankutty was harassing her throughout after the marriage and therefore she has taken a decision to live with the alleged detainee, Sri.Pramod Kumar. It is stated by the lady that her relationship with the alleged detainee got strengthened

during his stay at Kayamkulam in connection with the 'Sapthaham'. According to her, they eloped together to Moolamattom after taking a strong decision to marry and to live together. We have also interacted with the petitioner, the wife of the alleged detainee. We informed her about the decision taken by Sri.Pramod Kumar, her husband.

9. From the circumstances as narrated above, it is evident that the alleged detainee had eloped with Krishnakumari on his own wish and will. It is the firm decision of the alleged detainee, Sri. Pramod Kumar, to continue the relationship with the said Krishnakumari and live together with her. It is his plan to get the marriage with the petitioner dissolved. Similarly the lady Krishnakumari had also expressed her desire to get the marriage with her husband Sri. Sivankutty dissolved. No whisper has come from any of the parties in the interactions about the involvement of the 4th respondent in the matter.

10. From the circumstances we are convinced that the alleged detainee, Sri. Pramod Kumar was not under any

illegal detention or confinement of the 4th respondent or anyone else, as alleged. We have noticed that the alleged detainee has left the company of the petitioner on his own will and desire. In the said circumstances there is absolutely no ground for proceeding with the matter any further. The parties were apprised about the legal consequences possible and the legal remedies available to them.

In the result, the writ petition is dismissed, reserving liberty to the petitioner to approach the appropriate forum for redressing her grievances relating to the matrimonial relationship with the alleged detainee.

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

Sd/-
MARY JOSEPH, JUDGE.

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True copy

P.A. to Judge