

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(Crl.).No. 409 of 2015 (S)

PETITIONER(S):

**INDIRA, AGED 61 YEARS
W/O. SASIDHARAN, RESIDING AT SREEHARITHAM HOUSE
THUDAYANOOR P.O, KADAKKAL, KOLLAM 691 536**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.A.R.NIMOD**

RESPONDENT(S):

- 1. ROBIN MATHEW
S/O. ROSHAN MATHEW, RESIDING AT THAZHATHEKOOTTU
PUTHUPALLY P.O, KOTTAYAM 686 011**
- 2. THE STATION HOUSE OFFICER,
MEDICAL COLLEGE POLICE STATION
THIRUVANANTHAPURAM 695 011**

**R2 BY GOVERNMENT PLEADER SRI.P.S.ABDUL KAREEM
& ADGP SRI.K.I.ABDUL RASHEED**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

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

W.P.(Crl).No.409 of 2015

Dated this the 9th day of December , 2015

JUDGMENT

MARY JOSEPH, J

This writ petition is filed by the petitioner seeking for the issuance of a writ of Habeas Corpus for production of her daughter named Smt.Sajitha, who has been missing from Sree Avittom Thirunal Hospital for Women and Children attached to the Medical College Hospital, Thiruvananthapuram, wherein she had been admitted for delivery.

2. The averments in the petition are to the following effect: The petitioner's daughter named Sajitha was married to one Binu, who is an employee abroad. She has twin children aged 11 years in the wedlock with him. The petitioner was staying at the hospital as a by-stander. On 14.05.2015 at around 4.30 p.m., the petitioner went out for

some purpose, leaving her daughter, and came back to the hospital after some time. To her dismay, her daughter was then found missing from the hospital. Eventhough the petitioner along with her husband made thorough search at the entire hospital and premises they could not trace out their daughter. The petitioner's daughter had a friendship with the 1st respondent developed out of her acquaintance with him over facebook and therefore, the petitioner was under the apprehension that her daughter might have been enticed by the 1st respondent. Accordingly the petitioner's husband lodged a complaint before the Second respondent, on the basis of which the latter registered a crime as Crime No.605/15 under Section 57 of the Kerala Police Act, 2011. Despite the registration of the crime, the second respondent has not given much attention on investigating the matter and thereupon the petitioner has approached this Court seeking for the issuance of a writ of Habeas Corpus, for directing them to pursue with the investigation and to produce the corpus of the alleged detainue.

3. When the writ petition came up for our consideration, we directed the first respondent to produce Smt.Sajitha, the alleged detainee, before this Court if she is available in his custody. The second respondent was also directed to intensify the investigation in Crime No.605/15 registered on the basis of the complaint filed by the petitioner's husband before them and adjourned the case to 05.10.2015. On 05.10.2015, the learned Government Pleader reported to us that the investigation in respect of Crime No.605/15 is under progress. Therefore, this Court further issued direction to the second respondent to take all effective steps to expedite the investigation process and to trace out the alleged detainee and the first respondent. The District Police Chief was also directed to take personal attention in the matter to see that the alleged detainee and the first respondent are traced out and produced on 20.10.2015. On the day also the learned Government Pleader reported to us that the investigation in respect to the missing person have been intensified by constituting a

special team. Therefore, the investigating agency was directed by us to file a report narrating the progress of the investigation on 25.11.2015. On 25.11.2015, the learned Government Pleader reported that pursuant to the interim order passed by this Court on 20.10.2015, a progress report was filed by the investigating officer, explaining the sequences of courses of investigation undertaken by them. The learned Government Pleader has also sought for further time to trace out the alleged detainee and the first respondent. On 01.12.2015, the learned Government Pleader submitted that eventhough the investigation has been intensified, that has not yielded any positive results. However, on the basis of the undertaking of the investigating officer by way of an affidavit to take all earnest efforts to trace out the alleged detainee and the first respondent and to produce them before the court within a period of two weeks, we had granted time till 03.12.2015. On 03.12.2015 based on a motion made by the learned Government Pleader, the writ petition was taken up for

consideration. The learned Government Pleader submitted that the alleged detainee was traced out from Tiruppur on 02.12.2015. The investigating officer, who is the Assistant Commissioner of Police, District Crime Branch, Thiruvananthapuram City, had also produced the alleged detainee before this Court.

4. In the course of our interaction with the alleged detainee, she conceded that she had eloped with the first respondent from the hospital on 14.05.2015 and had resided together at different places in Tamil Nadu. She informed us that she gave birth to a child on 05.10.2015 at Tiruppur in Tamil Nadu. Nothing that no legal marriage was existing between the alleged detainee and the first respondent and that either of them have spouses and children living under separate marriages, we appraised her about the consequences likely to follow in the event of their continuance of stay together. Thereupon, the alleged detainee requested for time to have a rethinking of the matter.

5. Today, when the matter is take up for consideration, the alleged detenue and her parents appeared before us in person. We had interaction with the alleged detenue and she informed us that she has taken a firm determination in the matter and that is to go along with her parents to her parental house. The said factum is recorded by us. Under the above mentioned circumstances, we noticed that the alleged detenue is not under illegal detention or confinement of the respondent, as alleged in the writ petition and therefore, we set her at liberty to go along with her parents to her parental house to live a life as desired by her.

The Writ Petition is disposed of accordingly.

Sd/-

C.K.ABDUL REHIM, JUDGE

Sd/-

MARY JOSEPH, JUDGE

VS