

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(Cr1.).No. 413 of 2015 (S)

PETITIONER:

ABDULLA N.P., AGED 51 YEARS
S/O.ABDUL KHADER, AJMAL MANZIL, MARAKAPPU KADAPUURAM
P O OZHINJAVALLAPPU, KASARGOD DISTRICT

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH

RESPONDENT(S) :

1. SHABEER MANDYAN, AGED 28 YEARS
S/O.ABDURAHMAN, SHABEER MANZIL, MEENAPPEES
KANHANGAD, VADAKARAMUKKU, KARGIL
KASARAGOD 671 121

2. THE SUB INSPECTOR OF POLICE,
HOSDURG POLICE STATION, HOSDURG 671 532
KASARAGOD DISTRICT

3. THE CIRCLE INSPECTOR OF POLICE,
HOSDURG POLICE STATION, HOSDURG 67 1532
KASARAGOD DISTRICT

4. THE SUPERINTENDENT OF POLICE
KASARAGOD 671 121

R2 TO R4 BY ADDL.DIRECTOR GENERAL OF PROSECUTION
SRI. K.I.ABDUL RASHEED
BY GOVERNMENT PLEADER SMT.ABDUL KAREEM

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.P (Crl.) No. 413 OF 2015

DATED THIS THE 8th DAY OF OCTOBER, 2015

J U D G M E N T

Mary Joseph, J:

The petitioner who is father of Mrs. Lubna N.P. has approached this court seeking for the issuance of writ of Habeas Corpus directing respondents 2 to 4 to produce his daughter, who is alleged to be in illegal detention of the 1st respondent, who is her husband. It is alleged in the petition as follows:

2. Mrs. Lubna N.P., who is the daughter of the petitioner was married to the 1st respondent in May, 2013. At the time of marriage 100 sovereigns of gold, one Acre of land and one Swift car were given to the 1st respondent and his daughter by the petitioner. For the initial six months after the marriage, the 1st respondent was very cordial to the daughter of the petitioner. Thereafter he started making illegal demands for more money and property for which the

petitioner was not amenable and thereupon the 1st respondent started ill-treating the daughter of the petitioner.

3. The 1st respondent is working abroad and when he was there in connection with his employment, the daughter of the petitioner was allowed to stay at the parental home. The 1st respondent was not interested in visiting the house of the petitioner even when he was on leave. The 1st respondent did not even allow the petitioner's daughter then to attend any function in the family of the petitioner. Not even she was permitted to attend phonecalls made by the petitioner. It is alleged that for the last 10 months there was absolutely no contact or communication between the petitioner's family with the 1st respondent and his wife.

4. While so, in early June, 2015 the petitioner approached the 2nd respondent and lodged a complaint alleging that he is not allowed to see or contact his only daughter. It is alleged in the complaint that daughter of the petitioner was kept in illegal custody by the 1st respondent. Following the lodging of the complaint the 1st respondent

and the daughter of the petitioner were summoned by the police to the police station. The 1st respondent did not allow the petitioner's daughter to speak out the truth regarding her illegal confinement and the cruelty extended by him. In the talk held at the police station an amicable arrangement was arrived whereby, the petitioner was permitted to visit the house of the 1st respondent and to meet his daughter as and when desired. In accordance with the terms of arrangements arrived at the police station the petitioner went to the house of the 1st respondent and was permitted to meet his daughter. But when he went to the house of the 1st respondent again to seek his daughter/the 1st respondent scolded the petitioner with filthy languages and threatened him stating that if he further visits the house himself as well as his daughter would have to face severe consequences. Considering the welfare of his daughter the petitioner stopped visiting the house of the 1st respondent thereafter.

5. It is now learnt by the petitioner from a neighbour of the 1st respondent that his daughter is illegally detained and confined in the first floor of the house of the 1st

respondent without being permitted to go even downstairs of the house. It is also told by the neighbour of the 1st respondent to the petitioner that his daughter is not even allowed to make any phone calls. The petitioner expressed his apprehension that if no effort is made to save his daughter from the clutches of the 1st respondent and his family members, the life of his daughter would be endangered. It is in the said circumstances that the petitioner has approached this court alleging illegal detention and confinement of his daughter by the 1st respondent and seeking to set her free.

6. On 01-10-2015 when the writ petition came up for admission learned Government Pleader entered appearance for respondents 2 to 4. The 2nd respondent was directed by this court to conduct a discreet enquiry regarding the allegations contained in the writ petition. The 2nd respondent was also directed to get an independent statement of the daughter of the petitioner recorded through a woman police officer out of presence of the 1st respondent or any of his family members.

7. This day, when the case is taken up, learned Government Pleader has placed before us a report obtained from the 2nd respondent alongwith the statement of the alleged detainee recorded by the woman police officer.

8. We have gone through the statement of the alleged detainee and found therefrom that she is not under illegal detention or confinement by the 1st respondent. The statement of the alleged detainee reveals that she is living with the 1st respondent happily and was not under any harassments. According to her the petitioner had given 100 sovereigns of gold and one Swift car to her at the time of marriage. The 1st respondent was against receiving dowry and therefore, those were returned to the petitioner. The aforesaid act of the 1st respondent, made the petitioner to be out of cordial terms with 1st respondent. On 22-11-2014 when the alleged detainee alongwith her husband visited the house of the petitioner the brother of the alleged detainee beat her husband, and therefore the alleged detainee alongwith her husband returned to her matrimonial home. Thereafter they refrained from visiting her parental home

any more. The alleged detainee and her husband were staying at Abudabi and it is only in the month of May, 2015, she returned back to her matrimonial home for delivery. According to her neither the 1st respondent nor any of his family members had detained her and ill-treated her at any point of time.

9. From the statement of the alleged detainee we are convinced that the allegations of the petitioner are without bonafides. The alleged detainee was not under illegal detention or confinement of the 1st respondent or his family members. Therefore, absolutely no reason is existing, warranting our interference further in the matter.

In the result the writ petition is dismissed.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

AMG

True copy

P.A. to Judge