

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(Crl.).No. 430 of 2015 (S)

PETITIONER(S):

HAKKIM A. AGED 56 YEARS

S/O. ABDUL KAREEM, NAJEENA MANZIL, VARIYAM VILAKOM

ALEMCODE P.O., ATTINGAL, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.A.SHAJEEL

SMT.K.RAJESWARY

RESPONDENT(S):

1. DIRECTOR GENERAL OF POLICE
THIRUVANANTHAPURAM - 695 001.

2. THE SUPERINTENDENT OF POLICE
RURAL, KOTTARAKKARA, KOLLAM - 691 001.

3. THE SUB INSPECTOR OF POLICE
CHADAYAMANGALAM - 691534.

4. NAZEER A

S/O. ABDUL KHADAR, 'SANGEETHA' POONGODU, MADANNADA

CHADAYAMANGALAM P.O., KOLLAM DISTRICT - 691 534.

R BY SPL.GOVERNMENT PLEADER SMT. SREELATHA PARAMESWARAN

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 430 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE LETTER DT. 13.12.2014 BY THE PETITIONER'S DAUGHTER.

P2 - TRUE COPY OF THE FIRST INFORMATION REPORT DT. 17.9.2015 OF CHADAYAMANGALAM POLICE STATION.

P3 - TRUE COPY OF THE PETITION SUBMITTED BEFORE THE 2ND RESPONDENT.

P4 - TRUE COPY OF THE PETITION SUBMITTED BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

PS TO JUDGE

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

WP(Crl). No. 430 of 2015

Dated this the 3rd day of November, 2015

JUDGMENT

Abdul Rehim,J.

Father of a lady named Mrs. Najeena H, is the petitioner herein. The petitioner's daughter was married to the 4th respondent in the year 2006 and a male child, who is now aged 8 years, was born out of the said wedlock. The allegation in the writ petition is that the life of the petitioner's daughter in the house of the 4th respondent was not satisfactory and that the 4th respondent had tortured her both mentally and physically. The 4th respondent is an addict to alcohol and he used to torture and harass the petitioner's daughter and her child, is the allegation. It is stated that, during December 2014 the petitioner's daughter escaped from the 4th respondent and sought asylum at the 'Mahila Mandiram' at Thiruvananthapuram after writing a letter addressed to the 4th respondent. It is mentioned that at that time a case was registered by the 3rd respondent based on a

complaint lodged by the petitioner. The petitioner's daughter was produced before the Judicial First Class Magistrate Court at Kadakkal at that time, from where she was handed over custody to the petitioner. Thereafter on the basis of a mediation settlement arrived, the 4th respondent had again taken Mrs. Najeena H to the matrimonial home. But the torture and violence from her husband continued thereafter.

2. On 17.9.2015 the 4th respondent informed to the petitioner's house that Mrs. Najeena H is missing and the child is in his custody. The petitioner is raising various allegations of severe violence, torture and harassment inflicted by the 4th respondent on his daughter. It is stated that, Ext. P2 crime was registered with respect to missing of the petitioner's daughter. But the investigation is not conducted with in any seriousness, despite petitions submitted before the higher authorities. Alleging that the 4th respondent had deprived life and liberty of the petitioner's daughter, this writ petition is filed seeking a writ of habeas corpus for directing respondents 1 and 2 to produce the corpus of the petitioner's daughter and to set her at liberty.

3. Based on directions issued by this court to the police authorities, the alleged detenu, Mrs. Najeena H was traced out

and produced before this court on today. The 3rd respondent had submitted a report to the effect that the investigation revealed that the alleged detenu had some connections with one Mr. Abraham Varghese, Thundiyl Amichakkari P.O., Thiruvalla. On tracing his mobile calls, whereabouts of the alleged detenu could be located and she was detected from VLCC centre at Anna Nagar, Chennai on 30.10.2015. She was taken to Chadayamangalam Police Station and produced before the JFCM, Kadakkal on 31.10.2015, and as per the order issued from the Magistrate's Court she was admitted to 'Mahila Mandiram' at Kollam, and produced before this court on today

4. When we interacted with the alleged detenu she narrated the history of continuous physical and mental violence and torturing experienced from the side of the 4th respondent at the matrimonial house. It is said that she had left the matrimonial home on 17.9.2015 due to intolerable harassment and torture experienced from the side of the 4th respondent. It is admitted that the above said Mr. Abraham Varghese had helped her in leaving the matrimonial home and she went to Chennai, along with him. According to her, he is a person employed in Soudhi Arabia and he had left for Soudhi Arabia from

Chennai on 28.10.15. It is said that she had joined for a course at Chennai and was staying in a flat along with another lady. She had expressed her desire to go along with the petitioner on the basis that her parents had agreed to permit her to continue her studies .

5. Under the above mentioned circumstances, we are convinced that the alleged detenu Mrs. Najeena H, is not in any illegal confinement at present. She is set at liberty to go along with the petitioner, as desired by her.

The writ petition is hereby disposed of based on the above observations and directions.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/

