

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 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(Crl.).No. 435 of 2015 (s)

PETITIONER(S) :

AHAMMED KUTTY HAJI
S/O KAMMU, MUBARAK MANZIL, PO KARIPPUR
-673638, MALAPPURAM DISTRICT

BY ADV. SRI.E.S.ASHRAF

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
DEPARTMENT OF HOME AFFAIRS, GOVT. SECRETARIAT
THIRUVANANTHAPURAM-695 001
2. THE DISTRICT POLICE CHIEF
OFFICE OF THE DISTRICT POLICE CHIEF
MALAPPURAM -676 505
3. THE DEPUTY DISTRICT POLICE CHIEF,
MALAPPURAM-676 505
4. THE SUB INSPECTOR OF POLICE
KARIPPUR POLICE STATION, KARIPPUR-673638
5. THE SUB INSPECTOR OF POLICE
THIRURANGADI POLICE STATION, THIRURANGADI-676 505
6. MUHAMMED SALAHUDHEER K.T.
S/O MUHAMMED KUTTY, KANNATHU THANDATHIL HOUSE
KUTTOOR NORTH PO, A.R. NAGAR, MALAPPURA -676 305
7. SHEREEFA
W/O MUHAMMED KUTTY, KANNATHU THANDATHIL HOUSE
KUTTOOR NORTH PO, A.R. NAGAR, MALAPPURA -676 305
8. ABDUL SHUKOOR
S/O MOIDEEN KUTTY, MOONAMKANADAN HOUSE, PUTHANAGADI
VENGARA, MALAPPURAM DISTRICT-676 303

R1-R5 BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION SRI.TOM JOSE
PADINJAREKKARA.

GOVERNMENT PLEADER SRI.SHIBU JOSEPH.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Cr1.).No. 435 of 2015 (s)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1:TRUE COPY OF THE COMPLAINT DT. 29/9/15 SUBMITTED BY ABDUL AZEES

EXT.P2:TRUE COPY OF THE FIR DT. 29/9/15

EXT.P3:TRUE COPY OF THE COMPLAINT DT. 2/10/15 SUBMITTED BEFORE THE
2ND RESPONDENT

EXT.P4:TRUE COPY OF THE COMPLAINT DT.2/10/15 SUBMITTED BEFORE THE 3RD
RESPONDENT

EXT.P5:TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 2ND
RESPONDENT

/TRUE COPY/

P.S. TO JUDGE.

s1.

C.K.Abdul Rehim & Mary Joseph, JJ.

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W.P. (Crl.) No. 435 of 2015

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Dated this the 19th day of October, 2015.

JUDGMENT

Abdul Rehim, J.

1. The petitioner herein is the father of a lady named Asma M., aged 22 years (hereinafter referred to as the alleged detainee). The petitioner is seeking a writ of Habeas Corpus for directing production of the alleged detainee and to set her at liberty, based on an allegation that she is being illegally detained by respondents 6 to 8. Marriage of the alleged detainee was solemnized with one Sri.Ibrahim Mazood on 3.5.2015 (mistakenly recorded as 5.3.2015 in the writ petition) and she was residing along with the husband, after the marriage. But she is missing from the petitioner's residence since 28.9.2015 onwards. It is stated that on the said day she went to the college under the

pretext to collect some certificates. But she has not returned thereafter. Based on a complaint lodged by the brother-in-law of the petitioner before the 3rd respondent, Ext.P2 crime was registered under Section 57 of the Kerala Police Act. Since no effective steps to trace out the alleged detainee was taken from the side of the 3rd respondent, further complaints were submitted before respondents 1 and 2. According to the petitioner, further enquiries made by him revealed that the alleged detainee had gone along with the 6th respondent, who was her classmate in the college. Respondents 7 and 8 are the mother and uncle of the 6th respondent. It is stated that the 8th respondent has also lodged a complaint before the 5th respondent with respect to missing of the 6th respondent, based on which a crime was registered as Crime No.1304 of 2015 of Thirurangadi Police Station, under Section 57 of the Kerala Police Act. Alleging that the petitioner's daughter is being illegally

detained by respondents 6 to 8 against her free will, this writ petition is filed.

2. When the writ petition came up for admission, this court had issued notice to respondents 6 to 8 and they were directed to produce the alleged detainee before this court. The respondents 4 and 5 were directed to intensify the investigation of the crimes registered and to trace out the alleged detainee and to produce her before this court.
3. Today when the case is taken up, the 4th respondent had produced the alleged detainee before this court. Learned Government Pleader appearing on behalf of respondents 1 to 5 submitted that the alleged detainee was traced out from Chennai on 17.10.2015. It is also mentioned that the 6th respondent had surrendered before the Thirurangadi Police Station in the case registered before that station.
4. When we interacted with the alleged detainee, she had admitted about her marriage with Sri.Ibrahim Mazood. According to her, the stay in

the matrimonial home was not peaceful and hence she had returned to her parental home about three days back to 28.9.2015. She admitted that she went along with the 6th respondent on 28.9.2015 and stayed along with him at different places. When we apprised of her about the fact that she could not establish a marital relationship with the 6th respondent, unless her first marriage is legally dissolved, she was hesitant to go to her parental home. But when we interacted with the son of the petitioner (brother of the alleged detainee) who is personally present, he had assured that the alleged detainee will be taken back to her parental home and she will not be compelled in any manner against her free will, with respect to her future life. It is informed that there is every chance of the earlier marriage being dissolved through 'talaq' intended to be pronounced by the husband, Sri.Ibrahim Mazood. On the basis of such interactions made, the alleged detainee had agreed to go along with his mother and brother,

who were present before this court on today, to her parental home.

Accordingly the above writ petition is hereby disposed of by recording that the alleged detinue is not under any illegal detention at present. She is set at liberty to go along with her mother and brother to the house of the petitioner and to reside therein.

C.K.Abdul Rehim, Judge.

Mary Joseph, Judge.

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