

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 10TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(Crl.).No. 501 of 2015 (S)

PETITIONER(S):

**PRAVEEN.T., AGED 27 YEARS
S/O THOMAS, RESIDING AT KARIKATHIKUZHI,
KANNERU VEEDU, PANAVIDA,
MULLOOR PO, VIZHINJAM
TRIVANDRUM**

**BY ADVS.SRI.SHAIJAN C.GEORGE
SRI.C.K.SAJEEV
SMT.S.REKHA KUMARI
SRI.M.T.AJITH**

RESPONDENT(S):

- 1. CHILD WELFARE COMMITTEE,
TRIVANDRUM DISTRICT, GOVERNMENT CHILDRENS' HOME
POOJAPPURA, TRIVANDRUM-695 012
REPRESENTED BY ITS CHAIRMAN, FR. JAMES JOYE S.J**
- 2. NIRBHAYA KENDRA,
VENJARAMOODU, THIRUVANANTHAPURAM-695 607**
- 3. CIRCLE INSPECTOR OF POLICE
VIZHINJAM POLICE STATION, TRIVANDRUM, PIN-695 521**

R BY GOVERNMENT PLEADER SMT.SREELEKHA PARAMESWARAN

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
11-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(Crl.).No. 501 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** TRUE COPY OF THE ORDER/INFORMATION ISSUED BY THE 1ST
RESPONDENT ON 1/9/15
- EXT.P2:** TRUE COPY OF THE STATEMENT GIVEN BY THE WIFE OF THE
PETITIONER DT. 2/9/15
- EXT.P3:** TRUE COPY OF THE FIR IN CRIME NO. 1207/15 BY THE POOJAPPURA
POLICE STATION

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

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

W.P.(CrI) No.501 of 2015

Dated this the 10th day of December, 2015

JUDGMENT

C.K.Abdul Rehim, J.

The petitioner is seeking a writ of Habeas Corpus for directing production of a girl named Ms.Vichithra and to set her at liberty, based on an allegation that she is the wife of the petitioner and that she is being illegally detained by respondents 1 and 2.

2. Averments are to the effect that a marriage was solemnized between the petitioner and Ms.Vichithra (hereinafter referred to as 'the alleged detainee') on 28.07.2015 and they were living together as husband and wife. While so, on 04.08.2015 she was directed to be produced before the 1st respondent and the 1st respondent had ordered to accommodate the alleged detainee at Mahila

Mandir, Poojappura, Thiruvananthapuram and subsequently she was transferred to Nirbhaya Centre, Venjaramoodu, Thiruvananthapuram. During her stay at the said centre, it was revealed that she is pregnant. It is also considered that based on a direction issued by the first respondent a criminal case was registered against the petitioner at Poojappura Police Station, which was subsequently transferred to Vizhinjam Police Station, alleging offences punishable under Sections 376 and 34 of IPC and Sections 3 and 4 of Protection of Children from Sexual Offences Act along with provisions of the Prohibition of Child Marriage Act, 2006. Contention of the petitioner is that no offence under Sections 375 and 376 will lie against him. It is also contended that the respondents 1 and 2 has no power to detain the alleged detainee, against her free will. According to the petitioner he was looking after the alleged detainee and taking care of her under proper protection and love. Since the alleged detainee is now kept under detention against her free will, the same will amount to an illegal

detention, is the contention raised.

3. Admittedly, the alleged detainee is taken custody by the first respondent in exercise of power vested under the Juvenile Justice(Care and Protection of Children) Act, 2000. When the said authority had exercised powers vested under the above said act and kept the alleged detainee under care and protection in the second respondent, this Court cannot find that the custody is in any manner illegal. If the petitioner has got a case that the alleged detainee is not a person upon whom the first respondent cannot exercise any authority or if he has got a case that the petitioner is the proper person with whom custody of the alleged detainee can be entrusted on the basis that he will look after the welfare of the alleged detainee, it is for the petitioner to approach the first respondent in appropriate proceedings. Necessarily if such an application is received, it is for the first respondent to consider the same and to take a appropriate decision.

4. Therefore the above writ petition filed without

taking recourse to remedies as above mentioned, cannot be entertained, especially when this Court cannot hold that the alleged detenue is under illegal detention under the respondents 1 and 2.

Hence the writ petition is dismissed, subject to liberty reserved in favour of the petitioner to seek appropriate remedy before the first respondent.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

VS