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Rafeeq.M. Vs. State of Kerala

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Court : Kerala

Decided On : Feb-03-2014

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Rafeeq.M.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC & THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN MONDAY, THE3D DAY OF FEBRUARY201414TH MAGHA, 1935 WP(Crl.).No. 40 of 2014 (S) ---------- PETITIONER: ---------- RAFEEQ. M. AGED27YEARS, S/O.HAMZA, MEKARAKUNNAL, PO EDATHANATTUKARA, PALAKKAD. BY ADVS.SRI.K.M.FIROZ SMT.M.SHAJNA SRI.S.KANNAN RESPONDENTS: ---------- 1.REPRESENTED STATE OF KERALA, BY ITS SECRETARY TO GOVERNMENT, HOME DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695001. 2.KERALA THE DIRECTOR GENERAL OF POLICE, STATE, POLICE HEAD QUARTERS, THIRUVANANTHAPURAM - 695001.

3. THE SUPERINTENDENT OF POLICE, PALAKKAD-678 001. 4.NATTUKAL, THE SUB INSPECTOR OF POLICE, PALAKKAD DISTRICT- 678 001. 5.CRIME THE SUPERINTENDENT OF POLICE, BRANCH (CRIME INVESTIGATION

DEPARTMENT) KATHRIKADAVU, KOCHI682017. BY DGP SRI.ASAF ALI THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON0302-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(Crl.).No. 40 of 2014 (S) ---------- APPENDIX PETITIONER'S EXHIBIT:- ---------- EXT.P1 - A TRUE COPY OF THE RELEVANT EXTRACT NEWS PAPER ADVERTISEMENT APPEARED IN MADHYAMAM DAILY DATED0607-2013. RESPONDENTS' EXHIBITS : NIL. ---------- True copy P.A. To Judge ANTONY DOMINIC & ANIL K.NARENDRAN, JJ.

---------- W.P.(Crl.)No.40 of 2014 ---------- Dated this the 03rd day of February, 2014

JUDGMENT

ANTONY DOMINIC, J.

The petitioner is the nephew of Mammed @ Manuppa, aged 53 years. He says that his uncle is missing since 18/5/2013. It is that he made a police complaint and that no fruitful action has been taken and therefore he has filed this Writ Petition with a prayer to issue a habeas corpus for tracing out the production of his uncle. He also seeks a direction to hand over the investigation into the crime from the 5th respondent to any other competent officer.

2. On the filing of the Writ Petition this Court by order on 28/01/2014 directed the learned Government Pleader to get instructions in the matter. Accordingly, instructions have been obtained by the Government Pleader which show that on the complaint that the petitioner's uncle is missing on the allegation the complaint was received by the police on W.P.(Crl.)No.40 of 2014 2 25/5/2013. It is stated that accordingly Crime No.225 of 2013 of Nattukal Police Station was registered and that a detailed investigation was conducted. It is also stated that the person could not be traced out. Finally a final report was filed before the Judicial First Class Magistrate Court, Mannarkkad on 25/9/2013. We have been made available the documents received by the learned Government Pleader which contained a statement of the detenue's own wife which shows that he was having a strained

relation with wife and that he disappeared from his house taking his passport, Adhar card and certain other documents. It is also to note that even the detenue's wife does not have a case that he is illegally detained by anybody. Even in the Writ Petition there is no specific allegation that detenue is detained by any one. Further the statement of the detenue's wife, which we have already referred, shows that she has no such suspicion. That apart the investigation conducted by the police also confirmed that it is a case where W.P.(Crl.)No.40 of 2014 3 the person is only missing. Such being the situation we are not satisfied that the petitioner could establish a case of illegal detention of the detenue to file this Writ Petition with a prayer of habeas corpus. Be that it may, if the investigation that is conducted into Crime No.225 of 2013 of the Nattukal Police Station, is unsatisfactory for any reason, we leave open to the petitioner to seek his remedies in accordance with law. The Writ Petition is dismissed. ANTONY DOMINIC, JUDGE ANIL K.NARENDRAN, JUDGE skj

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