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Sheeba Mohammed, vs the Director General of Police,

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Court : Kerala

Decided On : Feb-28-2019

Judge : Honourable Mr.Justice C.K.Abdul Rehim,Honourable Mr.Justice T.V.Anilkumar

Appeal No. : WP(Crl.)/72/2019

Appellant : Sheeba Mohammed,

Respondent : The Director General of Police,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM & THE HONOURABLE MR.JUSTICE T.V.ANILKUMAR THURSDAY ,THE 28TH DAY OF FEBRUARY 2019 / 9TH PHALGUNA, 1940 WP(Crl.).No. 72 of 2019 PETITIONER: SHEEBA MOHAMMED, AGED 44 YEARS W/O MOHAMMED, PENDANATH HOUSE, PEZHACKAPPILLY P.O., PAYIPRA, MULAVUR VILLAGE, MUVATTUPUZHA, ERNAKULAM DISTRICT. BY ADVS. SRI.P.P.BIJU SRI.ANISH PAUL RESPONDENTS: 1 THE DIRECTOR GENERAL OF POLICE, POLICE HEAD QUARTERS, THIRUVANANTHAPURAM - 695 010. 2 THE SUPERINTENDENT OF POLICE (ERNAKULAM RURAL), SP OFFICE, ALUVA, ERNAKULAM

DISTRICT - 683 101. -:2:-

3 THE CIRCLE INSPECTOR OF POLICE, OFFICE OF THE CIRCLE INSPECTOR, PERUMBAVOOR, ERNAKULAM DISTRICT - 683 552. 4 THE SUB.INSPECTOR OF POLICE, PERUMBAVOOR POLICE STATION, PERUMBAVOOR, ERNAKULAM DISTRICT - 683 552. 5 FATHIMMA @ LAIJU, AGED ABOUT 40, D/O SAID MOHAMMED, VAYANBADATH HOUSE, ALLAPRA P.O., KANDATHARA, PERUMBAVOOR, ERNAKULAM DISTRCIT - 683 556. 6 SAID MOHAMMED, AGED ABOUT 56 YEARS, VAYANBADATH HOUSE, ALLAPRA P.O., KANDATHARA, PERUMBAVOOR, ERNAKULAM DISTRCIT - 683 556. BY ADV. DIRECTOR GENERAL OF PROSECUTION

OTHER PRESENT: SR.GP.SRI.K.B.RAMANAND THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 28.02.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:3:- C.K. ABDUL REHIM &

T.V. ANILKUMAR, JJ.

---------- W.P.(Crl) No. 72 OF 2019 S ---------- Dated this the 28th day of February, 2019

JUDGMENT

Abdul Rehim, J.

Wife of a person named Mohammed, aged 48 years(hereinafter referred to as 'the alleged detenue') is the petitioner herein, seeking a writ of Habeas Corpus for commanding production of corpus of the alleged detenue and to set him at liberty, based on the allegation that the respondents 5 and 6 are detaining him against his free will.

2. Averments in brief are that, the alleged detenue

married the petitioner on 24.10.1993. The alleged detenue was working as a 'sweeper' at a Muslim mosque at Kandamthara near Perumbavoor. He used to commute for the work on a daily basis from the matrimonial home, at Pezhakkappilly near -:4:- Muvattupuzha. But he failed to return to home from 02.01.2019 onwards, and started residing with the 5 th respondent. On the basis of a complaint lodged by the petitioner before the 4 th respondent, the respondents 5 and 6 were summoned to the police station and they have agreed that they will release the alleged detenue. But, despite such undertaking, the alleged detenue has not joined the petitioner. Therefore she lodged further complaints before the police authorities. Raising an allegation that the police is not taking any effective action to release the alleged detenue from the illegal confinement, the above writ petition is filed.

3. When the case came up for admission, we directed the 3rd respondent to conduct a discreet enquiry into the allegations of illegal confinement. The 2 nd respondent was directed to get a statement of the alleged detenue recorded and produced before this court.

4. Today, when the case is taken up, learned -:5:-

Government Pleader appearing on behalf of respondents 1 to 4 submitted a report of the Station House Officer, Perumbavoor Police Station, enclosing the statement of the alleged detenue recorded. In the statement, the alleged detenue had mentioned that, he married the petitioner in the year 1993 and three daughters were born out of the wedlock. The marital relationship was not cordial and he had adjusted with the petitioner only considering the sake of his children. He complained about the mental torture inflicted by the petitioner, all along. It is stated that, while working at the Kandanthara 'Jama-ath', he came to have acquaintance with the 5th respondent, which developed into intimacy. He solemnized a marriage with the 5th respondent, on 09.12.2018, through a ceremony of 'Nikkah' performed. It is mentioned that, when the petitioner came to know about the same, she lodged a complaint before the police authorities at Perumbavoor Police Station. According to the alleged detenue, as instructed by the

-:6:- 4th respondent, he went to the house of the petitioner with an intention to resume co-habitation. But the petitioner had threatened the alleged detenue that he will be done away with and not allowed him to reside therein. Therefore he left from the house of the petitioner and is now staying along with his sister at Pezhakkappilly, since the last one month. He had denied the allegations of illegal detention by respondents 5 and

6. According to him, he is now staying along with his sister on his own wish and will. Under the above mentioned circumstances, we are convinced that there is no basis for the allegations of illegal detention. Consequently, the above writ petition fails and the same is hereby dismissed.

Sd/- C.K. ABDUL REHIM, JUDGE. Sd/- T.V. ANILKUMAR, JUDGE. ul/- [True copy] P.S. to Judge. -:7:- APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE CERTIFICATE DATED 6.2.2019 ISSUED BY THE SECRETARY KARIKODU NAINAR PALLY MAHAL JAMA-ATH, THODUPUZHA, IDUKKI DISTRICT. EXHIBIT P2 TRUE COPY OF THE COMPLAINT DATED 12.2.2019 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

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