

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

MONDAY, THE 31ST DAY OF OCTOBER 2022 / 9TH KARTHIKA, 1944

WP (CRL.) NO. 1002 OF 2022

PETITIONER:

ALI AKBAR,
AGED 26 YEARS
S/O.KUNJU MUHAMMED, NANDYARATHIL HOUSE, MARUTHUR P.O,
CHORAKODE PALAM, PATTAMBI, PALAKKAD DISTRICT,
PIN-679 306.

BY ADV NIREESH MATHEW

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN 695001.
- 2 DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM, PIN-695 001.
- 3 THE DISTRICT POLICE CHIEF,
SOUTH FORT ROAD, PALAKKAD, PIN-678 001.
- 4 THE STATION HOUSE OFFICER,
PATTAMBI POLICE STATION, PATTAMBI P.O,
PALAKKAD DISTRICT, PIN-679303.
- 5 ABDULLA,
AGED ABOUT 60 YEARS, KALATHILTHODY HOUSE, CHORAKODE
PALAM, CHORAKODE P.O, PATTAMBI, PALAKKAD DISTRICT,
PIN-679336.

BY ADVS.
KEERTHI M.
SREENATH VIJAYARAGHAVAN

SRI.E.C.BINEESH-PUBLIC PROSECUTOR

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
31.10.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS & SOPHY THOMAS, JJ.

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W.P(Crl.) No.1002 of 2022

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Dated this the 31st day of October, 2022

JUDGMENT

Alexander Thomas, J.

The case set up in the above Writ Petition (Crl.) is to the effect that the petitioner, now aged 26 years, is having a love affair with the alleged detainee, Ms.Suhaina (Full Name – Fathima Suhaina Abdulla, aged 18 years, daughter of R-5), and that of late, she has been detained in the house of R-5 against her wishes and that, she is, thus, under the illegal detention of R-5 and that she wants to live with the petitioner and that they plan to get married, etc.

2. In this case, we had issued notice on 26.10.2022. The learned Public Prosecutor has taken notices for official respondents 1 to 4. Notice has been duly served on contesting respondent No.5 (father of the alleged detainee), by special messenger. On that day, 26.10.2022, we had also directed that R-4 SHO will produce the alleged detainee on 31.10.2022 at 9.30 a.m. before the Secretary, District Legal Services Authority (DLSA), Palakkad, who would then interact with the alleged

detenue and thereafter, the Secretary, DLSA was also ordered to arrange video conferencing, to enable this Court to directly interact with the alleged detenue at 10.15 a.m. on 31.10.2022.

3. Today, the Secretary, DLSA, Palakkad has arranged a video conferencing and we have interacted with the alleged detenue as well as the petitioner. The Secretary, DLSA has told us that earlier, she had also directly interacted with the alleged detenue, who has told her that she is not under the illegal detention of R-5 or anyone else and that, she is residing in the house of R-5 (her father) on her own wishes and that, though she was on friendly terms with the petitioner, she is not interested to live with him and that, she is now studying for First Year of B.Sc. Degree course in an unaided affiliated college, etc.

4. We have also directly interacted with the alleged detenue. She has told that her full name is Fathima Suhaina Abdulla and that, her date of birth is 07.02.2004 and she has completed the majority age of 18 years on 07.02.2022. That, she was on friendly terms with the petitioner, but that she does not intend to live with him or marry him and that, she has passed plus two course and she got admission in First Year B.Sc. course in a private unaided affiliated college in Pattambi, Palakkad District (viz., Lement College) and that she wants to

continue her studies and that she is not under the illegal detention of R-5, who is her father, and that she is residing with her father on her own wishes, etc. We have also interacted with the petitioner, who was also available in the video conferencing session. After directly interacting with the parties, we are of the view that the plea put up in the writ proceedings, that the alleged detainee is under the illegal detention of R-5 or that she is residing in the house of R-5 against her wishes, etc., appears to be untenable and factually wrong. In other words, the basic factual pleas for putting up a claim for the writ of habeas corpus, is not available in this case. Hence, the above Writ Petition (Crl.) will stand dismissed.

**Sd/-
ALEXANDER THOMAS
JUDGE**

**Sd/-
SOPHY THOMAS
JUDGE**

vgd

APPENDIX OF WP(CRL.) 1002/2022

PETITIONER'S EXHIBITS

EXHIBIT P1 PHOTOS SHOWING THE RELATIONSHIP BETWEEN
THE PETITIONER AND THE DETENU.

EXHIBIT P2 A TRUE PHOTOCOPY OF THE O.P TICKET ISSUED
FROM TALUK HOSPITAL, PATTAMBI DATED
18.10.2022.