

## RECORD OF PROCEEDINGS

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A

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
Special Leave Petition (Criminal) No. \_\_\_\_\_ of 2017

IN THE MATTER OF:-

ShafinJahan		... Petitioner
	Versus	
Asokan K.M. & Ors.		... Respondents

OFFICE REPORT ON LIMITATION

1. The Petition is/ are within time.
2. The petition is barred by time and there is delay of \_\_\_\_\_ days in filing the same against order dated **24.5.2017** and petition for condonation of \_\_\_\_\_ days delay has been filed
3. There is delay of \_\_\_\_\_ days in refilling the petitioner and petition for condonation of \_\_\_\_\_ days delay in refilling has been filed.

BRANCH OFFICER

New Delhi

Dated:4.7.2017

PROFORMA FOR FIRST LISTINGSection II-B

The case pertains to (Please tick/check the correct box):

- ☐ Central Act: (Title) The Constitution of India
- ☐ Section: N/A
- ☐ Central Rule: (Title) N/A
- ☐ Rule No.(s) N/A
- ☐ State Act: (Title) N/A
- ☐ Section: N/A
- ☐ State Rule: (Title) N/A
- ☐ Rule No.(s): N/A
- ☐ Impugned Interim order: (Date) N/A
- ☐ Impugned Final order/Decree: (Date) 24-5-2017
- ☐ High Court: (Name) High Court of Kerala at Ernakulam
- ☐ Names of Judges: Mr. K. Surendra Mohan, Mr. K. Abiraham Mathew
- ☐ Tribunal/Authority: (Name) N/A

1. Name of Matter: ☒ Civil ☐ Criminal
2. (a) Petitioner/appellant No.1: Shafin Jahan
- (b) e-mail ID: pallavi.pratap@redmail.com
- (c) Mobile phone number: N/A
3. (a) Respondent No.1: Asokan K.M. & Ors.
- (b) e-mail ID: N/A
- (c) Mobile phone number: N/A
4. (a) Main category classification: 14 matters
- (b) Sub classification: 1407 others
5. Not to be listed before: N/A
6. Similar/Pending matter: N/A

7. **Criminal Matter:**(a) Whether accused/convict has surrendered: ☒ Yes ☐ No(b) FIR No. N/A Date: N/A(c) Police Station: N/A(d) Sentence Awarded: N/A(e) Sentence Undergone: N/A8. **Land Acquisition Matter:** N/A(a) Date of Section 4 notification: N/A(b) Date of Section 6 notification: N/A(c) Date of Section 17 notification: N/A9. **Tax Matters:** State the tax effect: N/A10. **Special Category** (first petitioner/appellant only): N/A☒ Senior citizen- 65 years ☐ SC/ST ☒ Woman/child☐ Disabled ☒ Legal Aid case ☒ In custody11. Vehicle Number (in case of Motor Accident Claim Matters): N/A12. Decided cases with citation: N/A

Date:- 4.7.2017

(PALLAVI PRATAP)  
 ADVOCATE FOR THE PETITIONER  
 PallaviPratap@hotmail.com  
 REGISTRATION NO.2553



## SYNOPSIS

B

The present special leave petition filed under Article 136 of the constitution is to challenge the Judgment of the High Court of Kerala at Ernakulam dated 24.5.2017 in WP (Crl) No. 297 of 2016 whereby the High Court has allowed the writ of habeas corpus filed by the Respondent No.1 herein. The order granting habeas corpus is against the will of Ms. Akhila (whose name has now been changed to Ms. Hadiya), (hereinafter referred to as the "Detenue"), who has been placed under house arrest at the behest of the Respondents. In the same breath, the Ld Division Bench declared the marriage between the Detenue and the Petitioner as a sham and went further to state that the marriage is "of no consequence in the eye of the law". This erroneous finding was arrived at by the High Court without hearing the Petitioner and without there being a prayer to that effect.

The High Court by virtue of the impugned order has illegally annulled the marriage between the Petitioner and the detenue on the ground that the marriage was merely a ruse to escape jurisdiction of the High Court. This finding, in effect, eviscerates the right of a consenting adult to make decisions on her own volition. Further, the finding is in clear violation of Articles 21 and 25 of the Constitution of India. Moreover, the annulment of marriage is contrary to the principles of Islamic law relating to marriage. The marriage has been annulled on the ground that the parents of the Detenue did not participate in marriage proceedings. The said reference is erroneous in as much as under Muslim law it is not permitted for a Muslim man to execute the marriage of his Non-

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Muslim daughter, likewise a Non-Muslim man cannot execute the Nikah of his Muslim daughter. In such circumstances a guardian can be appointed to perform the Nikah of such persons. These principles of law have been glossed over by the Ld Division Bench while passing the Impugned Judgment.

The present case is such, that it is imperative that the Respondents be directed to produce the detinue before this Hon'ble Court, so that her will and intent could be ascertained inasmuch as it is solely her choice which is paramount. This is necessitated on account of the fact that all letters issued by the Petitioner to the detinue have been returned with the noting "refused by guardians". Clearly, the detinue is being placed under some sort of illegal house arrest.

Further, and more importantly is the fact that the High Court has completely glossed over the fact that the Detinue had converted to Islam two years prior to the wedding taking place. This is evidenced by her affidavit in January 2016 and further by the certificate dated 25.7.2016. Apart from this, the reports submitted by the Investigating Officer as directed by the High Court as well as the interactions between the detinue and the High Court all point to her having converted to Islam on her own free will and thereafter marrying the detinue.

The process of marriage commenced in April, 2016 when she placed an advertisement on a matrimonial website named www.waytonikah.com to which she received more than 50 responses. The Petitioner came in touch with the detinue following this advertisement



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sometime in August 2016 and he along with his family members met the detenue and decided to go ahead with the marriage. The High Court has simply chosen to ignore these facts and instead founded the impugned judgment on purely personal convictions.

The brief facts of the case are as follows:

That the Detenue was a student of the Shivraj Homeopathy Medical College, Salem pursuing the BHMS Course. It is where she had a close friendship with Ms. Jaseena and learnt about the tenents of Islam. The principles of Islam appealed to the Detenue and she thereafter wished to convert to the same. Thereafter, being of a majority age, and capable of following and professing a religion of her choice, she converted to Islam. Being born in a strict hindu family, she believed, with good reason, that her family would not accept her conversion. That being so, the Detenue did not return home. The Respondent No.1 herein filed a writ of habeas Corpus being WP (Crl) No. 25 of 2016 wherein he alleged that the Detenue has been converted to Islam against her free will by her two friends and their father and leveled baseless allegations of fanaticism and forced conversion on the friends of the Detenue and their father, who had given shelter to the Detenue. The same was disposed of by the Ld Division Bench of the Kerala High Court with the observation that there existed no circumstances to issue a writ of Habeas Corpus as it was found that the Detenue had voluntarily left the home of her parents. She was directed to stay at the hostel of the institution named Markazul Hidayah Sathyasarani Educational and



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Charitable Trust at Karuvambram, Manjeri in Malappuram District, ( Respondent No.7 herein) where she continued studying.

After the disposal of the aforementioned writ petition, the Respondent No.1 herein filed another writ petition being WP (Crl) No. 297 of 2016 of habeas corpus again alleging forced conversion and wild allegations of radicalization of the Detenue and links of the Respondent No.7 institution herein and Respondent No.8 herein to ISIS and other extremist organizations, all without any concrete evidence whatsoever and only because the Detenue had converted to Islam. Through the course of the proceedings of the writ petition, the Ld Division Bench reiterated that there was no proof of forced conversion of the Detenue and the Detenue continued to attend the hearings and gave testimony as to her profession to the religion of Islam and her faith in the same.

Thereafter, the Detenue got married to the Petitioner herein on 19.12.2016, according to Islamic rites. However, surprisingly, after twice holding that the detenue had converted on her own free will, the High Court took a stern view of the marriage holding that she had been forcefully converted.

It is submitted that the impugned judgment is erroneous on the following grounds:


- A. That the impugned judgment is a clear violation of the Detenue's constitutional rights under Article 14, Article 21 and Article 25 of the Constitution.
- B. That the Respondent No.1 herein had earlier filed a writ of habeas corpus against the Detenue being WP (Crl) No. 25 of 2016 before the High Court of

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Kerala at Ernakulam on the same grounds and that the same was disposed of through an order dated 25.1.2016 wherein it was held that the Detenue is not under illegal confinement and that she is residing at Respondent No. 7 institution, herein on her own free will. The subsequent writ clearly violates the principle of res judicata.

C. That the High Court had in the earlier writ petition filed by the Respondent No.1 herein, on the same grounds, against the Detenue, being WP (CrI) No. 25 of 2016 issued its final order and judgment dated 25.1.2016 wherein it had clearly held that the Detenue had not been coerced in any way by anybody into accepting the religion of Islam and that she, being a major, was free to make her own decisions about her life and future and which religion to practice. That the Ld Division Bench ought to have appreciated the judgment passed by the High Court in the earlier writ petition and not entertained the WP (CrI) No 297 of 2016 when the Respondent no.1 again came before the High Court with a case that had already been adjudicated upon fairly by the same court. It is evident that the impugned judgment violates the principles of judicial discipline inasmuch as the coordinate bench is bound by the earlier judgment.

D. That in the case of **Lata Singh Vs State of Uttar Pradesh, (2006) 5 SCC 475** this Hon'ble Court in similar circumstances has held that in a democratic, secular nation like ours, the choice of whom to marry lies with the individual alone and





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the parents cannot coerce an individual against marriage.

- E. That the impugned judgment is clearly against the precedent as laid down by this Hon'ble Court in **Lata Singh Vs State of Uttar Pradesh , (2006) 5 SCC 475** and ought to be struck down.
- F. That the impugned order is an insult to the independence of women of India as it completely takes away their right to think for themselves and brands them as persons who are weak and unable to think and make decisions for themselves. That the same is against their fundamental rights and should be struck down.
- G. That the impugned order carries unnecessary religious overtones. That while the High Court explicitly states that it would not want to determine what faith the Detenue should follow, but it does pin down that her identity — whether religious or otherwise — is strictly associated with her parents. Through the judgment, the High Court points out that the Detenue is the only daughter of "Hindu parents" and that she was brought up as "a Hindu in accordance with the faith of her parents" and that "she has been indoctrinated and influenced by persons whose identities have not been ascertained". That in a habeas corpus petition where the court is concerned with the safety of weak and vulnerable women such as the Detenue, the issue of religion should not find a place.
- H. That the High Court erred in equating the marriage between the Petitioner and the Detenue to be a case of "Love Jihad". That the facts of this



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case are completely different from that of a case of so called "Love Jihad". That in this case, the Detenue, being the girl had converted on her own free will to the faith of Islam and not for the reason of marrying the Petitioner. It was afterwards that she had met with the Petitioner on an online marriage website that they both decided to get married.

**LIST OF DATES AND EVENTS**

2015	<p>The Detenue was pursuing her BHMS Course from Shivaraj Momeopathy Medical College, at Salem.</p> <p>That the Detenue while staying with her friends at a rented house, was influenced by the good nature of her friends, namely Ms. Faseena and Ms. Jaseena. She wanted to learn about Islam and began reading Islamic books and watching videos and gradually began practicing the religion of Islam.</p>
2.1.2016	<p>That the parents of the Detenue made her perform certain religious ceremony against her will. That the same incident scarred her and on 2.1.2016 she left her home.</p>
4.1.2016	<p>The Detenue swore an affidavit wherein she claimed that she had embraced the religion of Islam on her own free will and decided to convert. A True Copy of the affidavit dated</p>

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*muslim for  
3 years  
signed  
Hadiya*

*then how  
3 years*

	4.1.2016 is attached herewith and marked as <b><u>Annexure P-1 (pages 125-126)</u></b>
11.1.2016	The Detenue wrote a letter to her parents informing them of her decision to embrace Islam and to withdraw the complaints filed against her and her friends. A True Copy of the letter dated 11.1.2016 is attached herewith and marked as <b><u>Annexure P-2 (pages 127-128)</u></b>
11.1.2016	The Detenue wrote a letter to the DGP (Law and Order), Vaikom, Kottayam and informed of her decision to convert to Islam. She expressed that her father would not let her live if she converted to Islam and that for the same reason she had to leave home. A True Copy of the letter dated 11.1.2016 is attached herewith and marked as <b><u>Annexure P-3 (pages 129-131)</u></b>
12.1.2016	The Respondent No.1 filed a WP (Crl) No. 25 of 2016 before the High Court of Kerala at Ernakulam praying for writ of Habeas Corpus to produce, his daughter, Ms. Akhila (name changed to Ms. Hadiya presently) (hereinafter referred to as the "Detenue") alleging that she was being detained by Respondents 4,7 and 8 therein. A True Copy of the WP(Crl) No. 25 of 2016 filed by the Respondent No.1



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	herein before the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-4(pages 132-149)</u></b>
19.1.2016 <i>as Adhya</i>	The Detenue filed a petition for impleadment as respondent in WP (CrI) No. 25 of 2016 before the High Court of Kerala at Ernakulam. A True Copy of the petition for impleadment dated 19.1.2016 filed by the Detenue before the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-5(pages 150-155)</u></b>
19.1.2016	The Detenue appeared before the court and reiterated her stand that she had left her home on 2.1.2016 on her own free will and with a resolution to accept the faith of Islam. She also reiterated that she did not wish to return to her parental home. Respondent No.8 herein expressed her willingness to accept the Detenue at her home and the the Ld. Division Bench directed that the Dentenue be sent along with Respondent No.8. A True Copy of the order dated 19.1.2016 in WP(CrI) No. 25 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-6(pages 156-169)</u></b>



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21.1.2016	The Detenue had filed a writ petition being WP(C) No. 1965 of 2016 against police harassment. That, in light of the order dated 19.1.2016 in WP(CrI)No. 25 of 2016, through an order dated 21.1.2016 the same was dismissed as withdrawn. A True Copy of the order dated 21.1.2016 in WP(C) No. 1965 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-7(pages 168-169)</u></b>
25.1.2016	<i>Converated Centre</i> The Detenue filed a memo showing documents of her admission in the Sathasarani at Manjeri. A true copy of the memo dated 25.1.2016 filed by the Detenue is attached herewith and marked as <b><u>Annexure P-8(pages 170)</u></b>
25.1.2016	The Ld Division Bench disposed of the Writ Petition filed by the Respondent No.1 herein and held that the Detenue is <u>not under illegal confinement</u> and that she is residing at Respondent No. 7 institution, herein on her own free will. A True Copy of the judgment and order dated 25.1.2016 in WP(CrI) No. 25 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-9(pages 171-172)</u></b>

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<p>25.7.2016</p> <p><u>183</u></p>	<p>The Therbiyatul Islam Sabha, an institute providing certificate courses in Islam, issued a certificate of discharge to the Detenue, certifying that the Detenue had completed the Islamic course conducted by the Institute and that she had embraced Islam. A True Copy of the Discharge Certificate dated 25.7.2016, issued by Therbiyatul Islam Sabha is attached herewith and marked as <b><u>Annexure P-10(pages 182)</u></b></p>
<p>16.8.2016</p> <p><i>he apprehends marriage</i></p>	<p>Thereafter, the Respondent No.1 herein filed another Writ Petition being WP (Crl) No. 297 of 2016 before the High Court of Kerala at Ernakulam praying that the Detenue be again be produced before the court. A True Copy of WP(Crl) No. 297 of 2016 filed by the Respondent No.1 herein before the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-11(pages 184 - 223)</u></b></p>
<p>17.8.2016</p>	<p>The High Court of Kerala in WP (Crl) No. 297 of 2016 , filed by the Respondent No.1 herein, issued an interim order directing that the daughter of Respondent No.1 herein, a Ms. Akhila (name changed to Ms. Hadiya presently) (hereinafter referred to as the "Detenue") be</p>



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	produced before the court on 22.8.2016. A True Copy of the interim order dated 17.8.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-12(pages 224-226)</u></b>
22.8.2016	The Detenue came before the Court, as directed, accompanied by Respondent No.8 herein. The Detenue told the court that she did not wish to accompany her parents back to their home. Thereafter, the Ld. Division Bench directed that the Detenue be kept in SNV Sadanam Hostel, Ernakulam where she had previously been residing and that she not be permitted to use even a phone. A True Copy of the interim order dated 22.8.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-13(pages 227-230)</u></b>
28.8.2016	The Respondent No.8 herein filed a detailed counter affidavit in WP (Crl) No. 297 of 2016 producing documents showing her educational qualifications and contributions to the society. A True Copy of the counter affidavit dated 28.8.2016 filed by the Respondent No.8 herein attached

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	herewith and marked as <b><u>Annexure P-14 (pages 231-258)</u></b>
31.8.2016	The Respondent No.7 herein filed a counter affidavit in WP (Crl) No. 297 of 2016 denying the baseless and far-fetched allegations made by the Respondent no. 1 herein in the writ petition. A True Copy of the counter affidavit dated 31.8.2016 filed by the Respondent No.7 herein is attached herewith and marked as <b><u>Annexure P-15(Pages 259-262)</u></b>
1.9.2016	The Senior Govt Pleader through a memo submitted the report of the Deputy Superintendent of Police, Perinthalamanna dated 1.9.2016 in WP (Crl) No. 297 of 2016. A True Copy of the memo dated 1.9.2016 filed by the Senior Govt Pleader is attached herewith and marked as <b><u>Annexure P-16(Pages 263-273)</u></b>
1.9.2016	The Ld. Division Bench issued an interim order directing that the Detenue be accomodated in Shanti Niketan Hostel, Samajan Road, Vaduthala. Also, the Ld Divison Bench directed that the counsel for the Detenue be permitted to visit her. A True Copy of the interim order dated 1.9.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached



	herewith and marked as <b><u>Annexure P-17(pages 274-278)</u></b>
4.9.2016	The Detenue filed a counter affidavit in WP (Crl) No. 197 of 2016 wherein she attached letters written by her to her parents and the DGP informing them of her voluntary conversion to Islam. A True Copy of the Counter Affidavit dated 4.9.2016 filed by the Detenue is attached herewith and marked as <b><u>Annexure P-18(Pages 279-281)</u></b>
5.9.2016	The Deputy Superintendent of Police, Perinthalamanna submitted a report dated 5.9.2016 in WP (Crl) No. 297 of 2016. A True Copy of the report dated 5.9.2016 submitted by the Deputy Superintendent of Police, Perinthalamanna dated 5.9.2016 is attached herewith and marked as <b><u>Annexure P-19(Pages 292-304)</u></b>
5.9.2016	The Ld. Division Bench on request for time by the Govt Pleader to complete the investigation allowed two weeks time for the completion of the same. A True Copy of the interim order dated 5.9.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-20(pages 305-309)</u></b>

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22.9.2016	The Senior Govt Pleader through a memo submitted the report of the Deputy Superintendent of Police, Perinthalamanna dated 22.9.2016 in WP (Crl) No. 297 of 2016. A True Copy of the memo dated 22.9.2016 filed by the Senior Govt Pleader is attached herewith and marked as <b><u>Annexure P-21(Pages 310 - 317)</u></b>
22.9.2016	The Ld Division Bench issued an interim order wherein it took note of the impleadment application filed by the Detenue and allowed the parents to visit the Detenue at the Shanti Niketan Hostel. A True Copy of the interim order dated 22.9.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-22(pages 318-319)</u></b>
27.9.2016	Through an interim order The Ld Division Bench held that the Detenue was not under any illegal confinement and that they could not compel her to reside at her parents residence against her will. The Ld Division Bench permitted the Detenue to reside at any place of her choice. A True Copy of the interim order dated 27.9.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is



	attached herewith and marked as <b><u>Annexure P-23(pages 310- 335)</u></b>
24.10.2016	The Respondent No.1 herein filed a reply affidavit dated 24.10.2016 in WP (CrI) No. 297 of 2016 to the Counter Affidavit filed by the Respondent No. 8 herein. A True Copy of reply affidavit dated 24.10.2016 filed by the Detenue is attached herewith and marked as <b><u>Annexure P-24(Pages 336 - 343)</u></b>
24.10.2016	The Detenue filed a counter affidavit in WP (CrI) No. 197 of 2016 wherein she produced certain damaging and inflammatory articles published by a newspaper which led to the incitement against her conversion to Islam of Respondent No.1 herein. A True Copy of the Counter Affidavit dated 24.10.2016 is attached herewith and marked as <b><u>Annexure P-25(pages 344-350)</u></b>
24.10.2016	The Ld Division Bench passed an interim order stating that directions issued in interim order dated 27.9.2016 shall continue. A True Copy of the interim order dated 24.10.2016 in WP(CrI) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure</u></b>

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	<b><u>P-26(pages 351-354)</u></b>
26.10.2016	The Respondent No1 herein filed an affidavit in WP (Crl) No. 297 of 2016. A True Copy of the affidavit filed by the Respondent No.1 herein in WP (Crl) No. 297 of 2016 is attached herewith and marked as <b><u>Annexure P-27(Pages 355-356)</u></b>
2.11.2016	The Respondent No.1 herein filed an affidavit in WP (Crl) No. 297 of 2016 alleging that the Detenue is weak and mentally unstable. A True Copy of the affidavit dated 2.11.2016 filed by the Respondent No.1 is attached herewith and marked as <b><u>Annexure P-28(Pages 357-361)</u></b>
14.11.2016	Through an interim order the Ld Division Bench expressed that there is no material to support the allegations made by Respondent No.1 herein, of forcible conversion of the Detenue by Respondent No.8 herein. Ld Division bench directed that the Detenue and Respondent No.8 produce their sources of income. A True Copy of the interim order dated 14.11.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-29(pages 362-366)</u></b>



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25.11.2016	As per the directions of the high court, the Respondent No.8 herein filed an affidavit in WP (Crl) No. 297 of 2016 producing details of her ration card and other income related details and the details of her family. A True Copy of the affidavit dated 25.11.2016 filed by Respondent No.8 herein is attached herewith and marked as <b><u>Annexure P-30(Pages 367-368)</u></b>
26.11.2016	The Detenue filed an additional counter affidavit in WP (Crl) No. 297 of 2016 wherein she produced her medical qualifications before the court. A True Copy of the additional counter affidavit dated 26.11.2016 filed by the Detenue is attached herewith and marked as <b><u>Annexure P-31(pages 369- 372)</u></b>
15.12.2016	The Senior Govt Pleader through a memo submitted the report of the Deputy Superintendent of Police, Perinthalamanna dated 15.12.2017 in WP (Crl) No. 297 of 2016. A True Copy of the report dated 15.12.2016 submitted by the Senior Govt Pleader is attached herewith and marked as <b><u>Annexure P-32(Pages 373- 381)</u></b>
19.12.2016	Through Interim Order, the Ld Division Bench directed the Detenue to be present before the court on 21.12.2016 wherein the court shall

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	<p>pass further orders regarding her admission to the Medical College, Salem. A True Copy of the interim order dated 19.12.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-33(pages 382-387)</u></b></p>
21.12.2016	<p>The Ld Division Bench through its interim order directed the Detenue to be admitted to SNV Sadanam Hostel until further orders and directed Respondent No.2 herein to investigate the Petitioner herein. Ld Division also directed Secretary of Othukkungal Gram Pancayat to not issue the marriage certificate sought by Petitioner herein and the Detenue. A True Copy of the interim order dated 21.12.2016 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-34(pages 388-400)</u></b></p>
4.1.2017	<p>The Senior Govt Pleader through a memo submitted the report of the Deputy Superintendent of Police, Perinthalamanna dated 4.1.2017 in WP (Crl) No. 297 of 2016. A True Copy of the memo dated 4.1.2017 filed by the Senior Govt Pleader is attached herewith and marked as</p>



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	<b><u>Annexure P-35(pages 421 - 426)</u></b>
6.1.2017	The Respondent No.1 herein filed an affidavit in WP (Crl) No. 297 of 2017 wherein he alleged that the Petitioner herein is a so called "anti-national" and produced certain facebook posts in relation to the same. A True Copy of the affidavit dated 6.1.2017 filed by the Respondent No.1 herein is attached herewith and marked as <b><u>Annexure P-36(Pages 427 - 428)</u></b>
6.1.2017	Ld Division Bench through an interim order further directed Respondent No. 5 herein to submit a comprehensive report on the Petitioner. A True Copy of the interim order dated 6.1.2017 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-37(pages 428 - 428)</u></b>
31.1.2017	The Senior Govt Pleader through a memo submitted the report of the Deputy Superintendent of Police, Perinthalamanna dated 30.1.2017 in WP (Crl) No. 297 of 2016. A True Copy of the memo dated 31.1.2017 filed by the Senior Govt Pleader is attached herewith and marked as <b><u>Annexure P-38(Pages 429 - 433)</u></b>

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31.1.2017	<p>The Detenue filed a counter affidavit dated 31.1.2017 before the High Court in WP (Crl) No. 297 of 2016 wherein she produced the complete details of her marriage to the Petitioner and the circumstances leading to the same. A True Copy of the counter affidavit dated 31.1.2017 filed by the Detenue is attached herewith and marked as <b><u>Annexure P-39(Pages 464-465)</u></b></p>
31.1.2017	<p>Through interim order the Ld Division Bench directed Respondent No.8 herein to disclose details of her links to any organisations. A True Copy of the interim order dated 31.1.2017 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-40(pages 466-470)</u></b></p>
6.2.2017	<p>As per the directions of the high court, the Respondent No.8 herein filed an affidavit in WP (Crl) No. 297 of 2016 producing documents with the details of her marriage. A True Copy of the affidavit of Respondent No.8 is attached herewith and marked as <b><u>Annexure P-41(Pages 471-475)</u></b></p>
7.2.2017	<p>Ld Division Bench passed interim orders seeking clarifications on documents produced by the parties therein. A True Copy of the interim</p>



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	order dated 7.2.2017 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-42(pages 477-479)</u></b>
19.2.2017	The Respondent No.8 herein filed an affidavit in WP (Crl) No. 297 of 2016 in relation to the details of the marriage of the Petitioner herein to the Detenue. A True Copy of the affidavit dated 19.2.2017 filed by the Respondent No.8 is attached herewith and marked as <b><u>Annexure P-43(Pages 480 - 481)</u></b>
21.2.2017	The Detenue filed a counter affidavit along with certain documents. A True Copy of the counter affidavit dated 21.2.2017 filed by the Detenue before the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-44(pages 482-484)</u></b>
22.2.2017	The Senior Govt Pleader filed a memo along with a report of Superintendent of Police, Perinthalmanna dated 22.2.2017 in WP (Crl) No. 297 of 2016. A True Copy of the memo dated 22.2.2017 filed by the Senior Govt Pleader is attached herewith and marked as <b><u>Annexure P-45(pages 485-489)</u></b>

22.2.2017	The Ld Division bench through interim order posted the matter for hearing on 2.3.2017 and directed the Detenue to be held at the hostel subject to conditions of its earlier orders. A True Copy of the interim order dated 22.2.2017 in WP(Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulam is attached herewith and marked as <b><u>Annexure P-46(pages 490-492)</u></b>
1.3.2017	The Senior Govt. Pleader filed a statement dated 1.3.2017 in WP(Crl) 297 of 2016 before the High Court of Kerala. A True Copy of the memo dated 1.3.2017 filed by the Senior Govt Pleader is attached herewith and marked as <b><u>Annexure P-47(pages 493-494)</u></b>
24.5.2017	The High Court of Kerala vide its impugned order dated 24.5.2017 in WP (Crl) No. 297 of 2016, against the will of the Detenue held that the custody of the Detenue be given to Respondent No.1 herein. The High Court also declared the marriage of the Petitioner to the Detenue held on 19.1.2016 to be null and void on the finding that the marriage is a sham and not valid in the eye of the law. Vide the impugned order the High Court allowed the habeus corpus petition.
4.7.2017	Special Leave Petition filed before this Hon'ble Court.



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	till filing of the appeal before this Hon'ble Court. A True Copy of the of the petition dated 24.5.2017 under Rule 150 of the High Court Rules filed by the Detenue is attached herewith and marked as <b><u>AnnexureP-48(Pages</u></b>
24.6.2017	The Petitioner had sent a post to the Detenue at her home on 24.6.2017. However, the same was returned as "Returned by Guardian". A True Copy of the post dated 24.6.2017 along with the note is attached herewith and marked as <b><u>Annexure P-49(pages</u></b>
.7.2017	Special Leave Petition filed before this Hon'ble Court.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN  
&  
THE HONOURABLE MR. JUSTICE K. ABRAHAM MATHEW

WEDNESDAY, THE 24TH DAY OF MAY 2017/3RD JYAISHTA, 1939

WP(Crl.).No. 297 of 2016 (S)

PETITIONER(S):  
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ASOKAN K.M., S/O MANI, AGED 56, KARATTUHOUSE,  
(DEVI KRIPA), T.V.PURAM POST, VAIKOM,  
KOTTAYAM DISTRICT, KERALA.

BY ADVS. SRI.C. RAJENDRAN  
SRI.C. PANIL RAJ

RESPONDENT(S):  
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1. THE SUPERINTENDENT OF POLICE,  
MALAPPURAM DIST. PIN-679001.
2. THE SUPERINTENDENT OF POLICE,  
KOTTAYAM DIST., PIN-689001.
3. INSPECTOR GENERAL OF POLICE,  
ERNAKULAM RANGE, KOCHI, PIN-682031.
4. THE DIRECTOR GENERAL OF POLICE,  
POLICE HEADQUARTERS, TRIVANDRUM-695001.
5. NATIONAL INVESTIGATION AGENCY,  
REPRESENTED BY THE SUPERINTENDENT OF POLICE(NIA),  
NO.28/443, 4TH CROSS, GIRI NAGAR,  
KADAVNATHRA, KOCHI, PIN-682016.  
THROUGH SPECIAL PUBLIC PROSECUTOR, (NIA),  
HIGH COURT OF KERALA, ERNAKULAM.



6. MARKAZUL HIDAYA,  
SATHYASARANI EDUCATIONAL & CHARITABLE TRUST,  
KARUVAMBRAMPO, MANJERI, MALAPPURAM DISTRICT,  
PIN-676123.REPRESENTED BY ITS MANAGER.

7. SAINABA A.S.,  
AGED ABOUT 45, SRAMBIKCAL HOUSE,  
PUTHOOR PO, KOTTACKAL, MALAPPURAM DISTRICT-679124.

R1-R4 BY ADV.ADDL.DIRECTOR GENERAL OF PROSECUTION  
SPECIAL GOVT. PLEADER SRI. P. NARAYANAN  
R5 BY SRI. M. AJAY - SPECIAL P.P FOR NIA  
R6 BY ADV. SRI.P.RAVINDRAN (SR.)  
R6 BY ADV. SMT.LIZA MEGHAN CYRIAC  
R7 BY ADV. SRI.P.K.IBRAHIM  
R7 BY ADV. SMT.K.P.AMBIKA  
R7 BY ADV. SMT.A.A.SHIBI  
R7 BY ADV. SRI.A.L.NAVANEETH KRISHNAN

(COUNSEL FOR THE DETENUE  
BY ADV. SRI.P.SANJAY  
BY ADV. SMT.A.PARVATH MENON  
BY ADV. SRI.BIJU MEENATTOOR  
BY ADV. SRI.S.SREEKUMAR (SR.)  
BY ADV. SRI.C.M.MOHAMMED IQUABAL)  
((IMPLEADING PTN. I.A. NO. 14827/2016 DISMISSED)

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD  
ON 24-05-2017, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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2. Ms. Akhila is the only child of Sri.Ashokan, the petitioner, and Smt. Ponnamma. They both belong to the Hindu (Ezhava) community and hail from Vaikom in Kottayam District. Ms.Akhila was therefore brought up in accordance with the beliefs and rituals of Hindu religion. At present, she is aged 24 years and has completed her degree course in Homeopathic Medicine, BHMS (Bachelor of Homeopathic Medicine and Surgery). She had joined the Shivaraj Homeopathy Medical College, Salem for her BHMS course. It is not in dispute that, though she had initially resided in the College Hostel, she later on took a house on rent outside the College and started residing there with four other friends. Two of her friends were Hindus, while the other two were Muslims. Among them, she became very close with Ms.Jaseena. She had accompanied Ms.Jaseena to her house and stayed with her a number of times. Her acquaintance with Ms.Jaseena attracted her to the tenets and beliefs of Islamic religion. The petitioner alleges that, she was influenced and persuaded to embrace Islam forcibly



by Sri. Aboobacker, father of Ms.Jaseena. It is further alleged that, the 6<sup>th</sup> respondent is an unauthorised Islamic conversion centre conducted by the Socialist Democratic Party of India (SDPI for short) or the Popular Front of India (PFI for short) formed by the leaders of SIMI, which is a radical organization that has been banned. According to the petitioner, Ms.Jaseena and Ms.Faseena are sisters and daughters of Sri.Aboobacker. The three of them had misguided, misled and forced the detainee to accept Islam.

3. According to him, on 6.1.2016 Ms. Akhila was taken away from Salem by Ms.Jaseena, Ms.Faseena and their father, without informing the petitioner. Therefore, he complained to the Police since she was missing, with no information about her whereabouts. The Perinthalmanna Police registered Crime No. 21 of 2016 initially under Section 57 of the Kerala Police Act. Later on, Sections 153A, 295A and 107 of Indian Penal Code were added and Sri.Aboobacker was arrested. However, the detainee could not be traced out. In view of the above, the writ petitioner

approached this Court by filing W.P.(Crl.) No. 25 of 2016 seeking a writ of habeas corpus for her production.

4. On 14.1.2016, this Court directed the Government Pleader to get instructions regarding the action taken on the complaint of the writ petitioner and the investigation made for tracing out the missing girl. The case was thereafter posted to 19.1.2016. On 19.1.2016 the alleged detainee, Ms.Akhila, appeared in person. She also filed I.A. No. 792 of 2016 through her lawyer Adv.P.K.Ibrahim seeking to get herself impleaded as an additional respondent in the writ petition. Accordingly, she was so impleaded. In her affidavit filed in support of her impleading petition, she narrated the circumstances under which she had left her home. According to her, she was aged 24 years and was doing her House Surgeoncy in BHMS Course at Shivaraj Homeopathy Medical College at Salem after completing the course. (The above assertion that she was doing House Surgeoncy Course is a false statement and she has not joined for her House Surgeoncy Course, till



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date). She has stated in her affidavit that while she was staying in a rented house at Salem along with her friends, two of her friends Ms. Jaseena and Ms.Faseena impressed her with their timely prayers and good character. She started reading Islamic books and also viewing internet videos out of her interest to learn more about Islam. It is stated that, her doubts about the concept of many Gods in the Hindu faith and the confusion as to which God she should pray to, gradually cleared and the concept of one God propounded by Islam started appealing to her mind and logic. Therefore, she started following Islamic faith, without formally announcing any change of faith. She used to pray both in her room as well as at her house. While so, one day her father saw her praying and warned her against Islam, which, according to him, was a religion of terrorism. Her father, according to her, was a non-believer while her mother was a Hindu devotee. Therefore, she kept her faith a secret. While so, her grandfather died in November, 2015. She remained at home to attend his funeral ceremony and

the rituals that follow, for about 40 days. Her relatives forced her to perform the rituals causing mental anguish to her. She therefore decided to become a Muslim. Accordingly, she left home on 2.1.2016 and directly went to the house of Ms. Jaseena instead of proceeding to Salem. It is stated that Ms.Jaseena then informed her father Sri.Aboobacker, who tried to get her admitted into some institution having special courses for converts to Islam. Though she was taken to an institution by name KIM, they did not admit her. Sri.Aboobacker then took her to Tharbiathul Islam Sabha where they agreed to admit her as an external candidate. For being admitted as an internal candidate, they insisted on the parents of the alleged detainee to be brought. For the purpose of joining as an external candidate, Ms.Akhila executed an affidavit testifying that she was accepting Islam on her own without force or persuasion from any one.

5. The alleged detainee has further stated that, since Sri.Aboobacker did not want to keep her at his house,



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he approached another institution by name Satyasarani. Since it was at 8 p.m. when they reached the institution, they were advised to report after two days with a notarized affidavit. Accordingly, the alleged detainee stayed in the house of Sri.Aboobacker from 2.1.2016 to 4.1.2016. On 5.1.2016, Sri.Aboobacker expressed his unwillingness to help her any more and sent her back to Salem. On 6.1.2016, the alleged detainee had gone to the College wearing a scarf that covered her head making her change of faith, public. Thereupon, one of her friends, Ms. Archana informed Ms.Akhila's parents. On the same day, she received a phone call from her mother informing her that her father had met with an accident fracturing his leg. Therefore, she was asked to return home immediately. However, Ms.Akhila understood that no such accident had occurred. She therefore went to Ms.Jaseena's house at Perinthalmanna, Malappuram. She reached Perinthalmanna at 1 a.m. She had got a call from the petitioner on her way to Perinthalmanna that unless she returned home, he would

commit suicide.

6. According to her, on her way to Perinthalmanna, she had informed Satyasarani that she wanted to be admitted on 7.1.2016 itself and that she would be available at her friend Ms.Jaseena's house. She wanted them to take her from Ms.Jaseena's house, since Ms.Jaseena's father was not willing to help her. Thereupon, according to her, Satyasarani contacted Smt.Sainaba (the 7<sup>th</sup> respondent herein), a social worker, and sought her help in the matter. She was accordingly asked to meet the alleged detainee. Accordingly, she met the alleged detainee, but left the place noticing the difference of opinion between her and Sri.Aboobacker. Later, after leaving the house of Ms.Jaseena, the alleged detainee sought the help of the 7<sup>th</sup> respondent and she has been staying with her, from 7.1.2016 onwards. She has further gone on to say that, she had issued a registered letter to her father as well as another letter to the Director General of Police informing them of the actual state of affairs. She asserted before this



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Court that, she, being a person who has attained majority, was within her rights to choose a religion of her choice and to follow a faith that was appealing to her. According to her, she was subjected to Police harassment pursuant to the complaint lodged by her father. Therefore, she had accompanied the 7<sup>th</sup> respondent and had together filed W.P. (C) No. 1965 of 2016 complaining against Police harassment. It was when she came to this Court in connection with the said case that she came to know of the pendency of the habeas corpus petition filed by her father. It was in the said circumstances that she filed the impleading petition and appeared in Court.

7. This Court, after considering the matter on 19.1.2016 found that Ms.Akhila was not under any illegal confinement. This Court also interacted with the detenue and permitted her to accompany the 7<sup>th</sup> respondent and to reside with her. However, this Court directed her to produce proof of her admission to a course at Satyasarani institution. Her parents were also permitted to visit her.

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Accordingly, as per judgment dated 25.1.2016 the writ petition was disposed of permitting the alleged detainee to reside at a place of her choice and recording the fact that she was residing at Satyasarani institution, of her own free will. Her parents and family members were permitted to visit her at the institution.

8. The present writ petition was filed on 16.8.2016 alleging that the detainee was likely to be taken out of India. As already noticed above, the case of the petitioner is that, this is an instance of forcible conversion to Islam at the instance of her friends Ms. Jaseena and Ms.Faseena as well as their father Sri.Aboobacker. It is only to save Sri.Aboobacker from the criminal case charged against him that she had made statements in her affidavit regarding his reluctance to admit her to the Satyasarani and to help her in embracing Islam. The real state of affairs is contrary, it is alleged. It was Sri.Aboobacker, who had pressurized and persuaded the detainee to embrace Islam and therefore, this is a case of forcible conversion. The 6<sup>th</sup>



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respondent Satyasarani is an organization engaged in such illegal conversion and the 7<sup>th</sup> respondent is part of the same organization. As already stated above, this writ petition was admitted on 17.8.2016, and an interim order directing respondents 1 to 4 to keep her under surveillance and to ensure that she was not taken out of India was issued. Thereafter the case was posted to 22.8.2016. On 22.8.2016 when the case was taken up, the Investigating Officer, who was present in Court informed us that the detainee had been removed to an undisclosed destination even before the Police reached the 7<sup>th</sup> respondent's house. However, he assured that no effort would be spared to trace her out. The case was therefore adjourned to 25.8.2016 for production of the alleged detainee.

9. After the case was so adjourned, the Additional Director General of Prosecutions mentioned the matter again in Court during the course of the day informing us that the alleged detainee had come to Court along with the 7<sup>th</sup> respondent and therefore, requested that

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the matter be taken up. Accordingly, the matter was taken up. Adv.P.Sanjay represented the alleged detainee. We have interacted with both the detainee and her parents. She informed us that she had completed her BHMS Course and was about to commence her House Surgeoncy. She came under the influence of Muslim religion, having heard about the teachings of the religion from her room mates. She had therefore attended a course at Satyasanj and had become Muslim by conversion. She refused to accompany her parents. She maintained that the 7<sup>th</sup> respondent was her guardian. She wanted to continue her residence with the 7<sup>th</sup> respondent and her family. Though we tried to persuade her to accompany her parents, she did not accede to our request. It was submitted by the parents of the alleged detainee that she had been missing for the past one month and therefore she should not be allowed to accompany the 7<sup>th</sup> respondent. In the above circumstances, she was directed to be accommodated in a ladies hostel, at the expense of her father. A thorough investigation was also



ordered to be conducted. Thereafter, since the investigation had not been completed, the alleged detainee continued to be accommodated at the Hostel, on the basis of successive orders issued by this Court.

10. In the above circumstances, when the case came up before another Division Bench of this Court on 27.9.2016, the Court interacted with Ms. Akhila again. She refused to go along with her parents. She also submitted a statement in writing dated 27.9.2016 wherein it was stated that for the past 35 days, for no fault of hers, she was in the custody of the Court, without being permitted to interact with anyone else. It was alleged that the present writ petition was filed at the instance of her father's lawyer. The said statement forms part of the records of this case. She claimed that she wanted to reside at a place of her choice. She has not been issued with a Passport and therefore there was no likelihood of her being taken to Syria, as alleged. After considering the matter, this Court ordered as follows:

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"After hearing learned counsel on both sides, we are of the opinion that in the light of the finding entered by this court in the earlier round of litigation that this Court cannot compel the petitioner's daughter to go and reside with her parents and that she is not in the illegal custody of anyone, this court cannot any longer direct that the petitioner's daughter should continue to reside at Santhinikethan Hostel, Pachalam. When we asked the petitioner's daughter as to whether she is willing to appear on another day, she submitted that she will appear on the next hearing date. Learned counsel for the detinue also submitted that the detinue will be present in person on the next hearing date. We accordingly permit the detinue to reside at a place of her choice. We also record the statement of Ms.Akhila that she proposes to reside with the seventh respondent, Smt.A.S.Sainaba, whose address is mentioned in the instant writ petition. Sri.P.K.Ibrahim, learned counsel appearing for the seventh respondent submitted that the seventh respondent will cause production of the petitioner's daughter on the next hearing date, if she proposes to reside with her. If the petitioner's daughter proposes to shift her residence and to reside elsewhere, we shall inform that fact to the Deputy Superintendent of Police, Perinthalmanna in writing and furnish her full residential address and the telephone number if any over which she can be contacted. Call on 24.10.2016. The



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Deputy Superintendent of Police, Perinthalmanna shall cause production of the petitioner's daughter on that day. It will be open to the parents of Ms.Akhila to meet and interact with her."

Accordingly, Ms. Akhila was permitted to reside with the 7<sup>th</sup> respondent.

11. In the above circumstances, on 14.11.2016 when the case came up before us, the counsel for the petitioner expressed serious apprehension regarding the continued residence of Ms. Akhila in the house of the 7<sup>th</sup> respondent. It was pointed out that, though she had completed her BHMS Course, since she had not undergone House Surgeoncy, which is part of the course itself, she was not competent to practice her profession. Allegations regarding forcible conversion of Ms.Akhila by respondents 6 and 7 were reiterated. The counsel for respondents 6 and 7 however refuted the allegations and contended that Ms.Akhila was free. The Senior Counsel Sri.S.Sreekumar, who appeared for Ms.Akhila, on the said date maintained that she was practicing Homeopathy and was earning an

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income sufficient to maintain herself. This Court was also worried about the source of income of the 7<sup>th</sup> respondent, since it was alleged by the counsel for the petitioner that she was only part of an organization that had unlimited financial resources. Therefore, this Court directed the filing of separate affidavits disclosing the sources of income of 7<sup>th</sup> respondent as well as Ms.Akhila. The 7<sup>th</sup> respondent was directed to produce her Ration Card and the details of the income of her husband. The first respondent was also directed to probe into the above aspects and submit a report.

12. On 19.12.2016, after noting that Ms.Akhila had not completed her course and acquired competence to practice Homeopathy, we expressed our opinion that she should complete her House Surgeoncy without further delay and obtain eligibility to practice. Senior Counsel Sri.S.Sreekumar submitted that she has to complete her House Surgeoncy at Shivaraj Homeopathic Medical College at Salem, which has a Hostel for girl students where



Ms.Akhila was willing to reside for the purpose of completing her House Surgeoncy. The petitioner who was present in Court offered to bear the expenses for her education and stay at the Hostel. Therefore, we passed the following order :

"We have heard the learned Senior counsel Sri.S.Sreekumar, who appears for the detinue. We have perused the affidavit dated 26.11.2016 filed by the detinue producing documents, Exts.R8(d) and R8(e). We are not prepared to rely on Ext.R8(d) which purports to make it clear as though a registered Homeopathic Medical Practitioner has permitted the detinue to work as a trainee in Homeopathic Medicine on a remuneration of Rs.2000/- per month for her day today expenses. We fail to understand how the detinue, who has not obtained a degree in Homeopathy can be permitted to train under him. The detinue has admittedly not completed her House Surgeoncy or obtained eligibility to practice. Therefore, it is only appropriate that she completes her House Surgeoncy without further delay and obtains eligibility to practice Homeopathic Medicine. Her Senior counsel Sri.S.Sreekumar informs us that, the detinue is desirous of completing her House Surgeoncy. However, we place on record our dissatisfaction at the continued residence of the detinue with the 7<sup>th</sup>

respondent, who is a stranger. The counsel for the petitioner also expresses anxiety and concern at her continued residence with the 7<sup>th</sup> respondent. He is anxious about the safety and well being of the detinue. His anxiety and concern as the parent of an only daughter is understandable. Therefore, it is necessary that the detinue shifts her residence to a more acceptable place, without further delay. According to the learned Senior counsel Sri.S.Sreekumar, she has to complete her House Surgeoncy at the Sivaraj Homeopathic Medical College, Salem. The college has a hostel for girl students where she is willing to reside and complete her House Surgeoncy. The petitioner offers to bear the expenses for her education and stay at the Medical College Hostel. He offers to escort her to the Medical College and to admit her into the Hostel there. The detinue is also, according to the learned Senior counsel, willing to accompany her.

2. In view of the above, there shall be a direction to the detinue to appear before this Court at 10.15 a.m on 21.12.2016. The petitioner shall also be present in person in Court on the said date. The petitioner who is stated to be in possession of the certificates of the detinue shall bring such certificates also to Court. We shall pass further orders in the matter, regarding the manner in which the detinue is to be taken to the Medical College and admitted to the ladies hostel, on



21.12.2016.

Post on 21.12.2016."

It is necessary to mention at this point of time that the order on 19.12.2016 was passed considering the best interests of Ms.Akhila, who had abandoned her studies at a point of time when she was on the verge of acquiring a respectable professional qualification. The concern of the father was in ensuring that his daughter acquired a professional degree as early as possible so as to make her self sufficient or independent. The prospect of completing the degree would become bleak with the passage of time, it was pointed out. Thus the case stood posted to 21.12.2016 for appearance of the detinue and the petitioner.

13. However, on 21.12.2016, Ms.Akhila appeared before court accompanied by a stranger. When questioned, the Senior Counsel Sri.S.Sreekumar informed the Court that she had got married to the young man, who was accompanying her, according to Muslim religious rites on 19.12.2016. This Court was also informed that the

marriage was performed by the Khazi of Puthoor Juma Masjid in the presence of relatives of both family at the house of the 7<sup>th</sup> respondent. Certificates to evidence the marriage were also made available. This Court was seriously perturbed and concerned at the subterfuge practised. The turn of events was contrary to all the submissions made by the learned Senior Counsel on the previous posting date. Since the marriage of Ms. Akhila was a totally unexpected event, we perused the documents produced before us, noticed the discrepancies therein, noted the necessity of ascertaining the veracity of the statements made, and recorded our dissatisfaction at the manner in which the entire exercise was accomplished. This Court noted in the said order that not even an indication of the marriage was given to us at the time of passing the order dated 19.12.2016, though the alleged marriage was also on the same day. We also expressed our dissatisfaction at the conduct of the detainee, the 7<sup>th</sup> respondent and others, who were involved. We wanted the antecedents of



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the bride groom to be enquired into by the Police. We passed a detailed order recording our dissatisfaction and directing the detinue to be accommodated at a ladies hostel until a proper investigation into the matter was completed. The order dated 21.12.2016 reads as follows:

"This Writ Petition is filed by the father of Ms.Akhila alleging that, she was misled, misguided and forced to become a Muslim. Various other allegations, relating to links with extremists Muslim Organizations are also made in the Writ Petition. Initially, as per order dated 22.8.2016 we had directed the detinue to be accommodated in the SNV Sadanam Hostel, Ernakulam till the next posting of the case. She had been so accommodated till 27.9.2016. On the said date, another Division Bench of this Court took note of the statements made by the detinue that she was not willing to go home with her parents and that she wanted to go and reside at a place on her choice. It has been noted in the said order that the detinue had not been issued with a passport and that, there was nothing to indicate that she would be taken out of the country. She was therefore permitted to accompany the 7<sup>th</sup> respondent and to reside along with her at her address mentioned in this Writ Petition. The undertaking of the counsel for the 7<sup>th</sup> respondent that she would be produced before Court on

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the next posting date was recorded. This Court has also assured that if she proposed to shift residence, the said fact should be informed to the Deputy Superintendent of Police, Perinthalmanna in writing and that her full residential address and telephone number should also be made available. Accordingly, she has been residing with the 7<sup>th</sup> respondent.

2. In a subsequent order, in the light of the allegations regarding forcible conversion of the detainee, we directed the detainee as well as the 7<sup>th</sup> respondent to file separate affidavits disclosing their sources of income. We noticed that, the detainee though had completed her course in Bachelor of Homoeopathic Medicine (BHMS) she had not completed her House Surgeoncy course. Nor had she obtained eligibility to practice Homoeopathic medicine. The first respondent was also directed to probe into the said aspects and to place a statement on record with supporting documents regarding the income of the said persons. The case came up again before us on 19.12.2016. The detainee was not present in Court. However, she had filed an affidavit producing Exts R8(d) and R8(e) documents. Ext R8(d) was produced to show that she was having an income of Rs.2,000/- per month which was being given to her as remuneration by a registered Homoeopathic Medical Practitioner with whom she was alleged to be working. His name is Dr.Sameer Pookkayil. On the said date, we



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were informed by her senior counsel Sri.S.Sreekumar that she was desirous of completing her House Surgeoncy course and that for the purpose she was willing to go back to the college from which she completed her BHMS course and to reside in the ladies hostel there. The petitioner offered to bear the expenses for her course. Therefore, we had directed the detinue to be present in Court today. Accordingly, she is present.

3. But, today she is accompanied by a stranger and when questioned, we are informed by the learned Senior Counsel Sri.S.Sreekumar that the said person is her husband and that she had got married to him on 19.12.2016, according to Muslim religious rites. It is stated that, the marriage was performed by the Khazi of Puthoor Juma Masjid in the presence of guests and relatives of both the family as per Islamic shariat law at Srambikal house, Puthoor. Incidentally, Srambikal house is the residence of 7<sup>th</sup> respondent as disclosed from the Writ Petition. The certificate is seen to have been issued by the Secretary of an organization by name Thanveerul Islam Sangham, Puthur, Kottakkal, Malappuram District. We do not understand who are the relatives of the detinue, who had attended the marriage. The learned senior counsel Sri.S.Sreekumar explains that, only the relatives of the bride groom had attended and attributes the statement in the certificate to the loose expression

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of language by the person, who had issued the same. We do not know what is the organization that has issued the certificate. It is not clear whether it is even registered. Whether it is only a paper organization alone, also requires to be ascertained. The certificate which is a photocopy dated 20.12.2016 is taken on file and shall be retained as part of the records of the case. The learned Senior Counsel has also handed over to us photostat copies of receipts issued by the Othukkungal Grama Panchayat on 20.12.2016, evidencing payment of money for registration of the marriage between one Shafin Jahan and Hadiya. However, the name that appears in the marriage certificate is Shefin Jahan. The name of the girl is mentioned as Hadiya, daughter of Akhil Asokan, which doesn't make sense. The identities of the persons who are referred to in the certificates require to be verified and ascertained with certainty, in the first place, apart from the genuineness of the organization that has issued the same.

4. We have questioned the petitioner who is present in Court. According to the petitioner, he has had no information about the marriage of the detainee. The learned Government Pleader alleges that, the marriage has been hurriedly conducted, after we had passed our order dated 14.12.2016 and the subsequent order on 19.12.2016. According to the learned Government Pleader, the 7<sup>th</sup> respondent had been involved in another



case of forcible conversion in which, the detenue had been set at liberty. In the statement given by the detenue in the said case, before the Judicial First Class Magistrate, Pattambi under Section 164 of the Code of Criminal Procedure in Crime No.510 of 2016 of Cherpulassery Police Station, she has stated that one Sainaba had advised her to marry a muslim, so as to avoid any interference by the Court. The said case, according to the learned Government Pleader is still under investigation. We are also told by the learned Government Pleader that the Sainaba to whom reference is made by the detenue in her Section 164 statement referred to above, is none other than the 7<sup>th</sup> respondent in this case. At this stage, Advocate P.K.Ibrahim, who appears for the 7<sup>th</sup> respondent raises an objection pointing out that his client has not been made an accused in any case till date. Nor does he or the 7<sup>th</sup> respondent have any knowledge of the statement referred to above. The objection is recorded. According to the learned Government Pleader therefore, this is a case in which the detenue has been forced or misled into undergoing a ceremony of marriage in accordance with Islamic religious rites. It is also pointed out that, the so-called marriage is only a ploy to defeat the present proceedings that are pending before this Court and to see that the detenue is not freed from the custody of the persons into whose clutches and influence she has

fallen.

5. According to the counsel for the petitioner, on the other hand, the detinue is his only daughter. Though she has attained majority, it is contended that, he is anxious about her safety and well being. ~~He is~~ afraid that she is being led astray. This is the second time that he has approached this Court with a petition for habeas corpus. It is contended that, as a parent it is his right to give away his daughter in marriage and to ensure that the person who marries her is a suitable person.

6. The learned Senior Counsel Sri.S.Sreekumar submits that, since the detinue is present in Court this Court may interact with her and verify whether it was under the influence of anyone else or under coercion that that her marriage was performed, as alleged. We shall interact with the detinue, at the appropriate time. We are not satisfied that it is necessary to interact with her at present.

7. As noticed above, on 14.11.2016 we had expressed our dissatisfaction in our order about the continued residence of the detinue with the 7<sup>th</sup> respondent who is admittedly a stranger. Her parents are alive and the petitioner is before us, seeking a writ of habeas corpus levelling a slew of allegations against respondents 6 and 7. We also notice that the detinue has entered appearance through a counsel and has been



contesting this matter on her own with the assistance of a Senior Counsel also. She has changed her former counsel, Advocates P.Sanjay and Parvathi and is presently being represented by Advocate C.N.Mohammed Iquabal who has given a senior engagement to Advocate S.Sreekumar. We therefore, wanted the detinue as well as the 7<sup>th</sup> respondent to disclose their sources of income. We have dealt with the documents produced as Exts R8(d) and R8(e) in our order dated 19.12.2016. We also expressed our view that it was necessary for the detinue to complete her House Surgeoncy and to obtain eligibility to practice Homoeopathic Medicine, in which she had completed her Degree course. However, we were not given even an indication of a proposed marriage at that time. We notice that, the marriage of the detinue that is stated to have been conducted, was on 19.12.2016, the date on which we had passed our order directing her to be produced before us today. We had also directed the petitioner to bring to Court all her certificates so as to enable her to obtain admission to the Medical College Hostel at Salem. It is in the above context that we are informed all on a sudden that she has got married. The entire conduct of the detinue, the 7<sup>th</sup> respondent and others who may have been involved leaves a lot to be desired. This petition filed by the father seeking the release of his daughter, by the issue of a writ of habeas corpus has

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been pending since 16<sup>th</sup> August, 2016. The detinue was residing with the 7<sup>th</sup> respondent as per an earlier order passed by this Court. This court exercising its Parens Patriae jurisdiction is anxious and concerned about the safety of the detinue and her well being, viewed especially in the light of the allegations made in the Writ Petition and the continued obstinance of the detinue to return to her parents. The person who is stated to have got married to the detinue has appeared before us today, for the first time. He claims to be a graduate and a person who is employed in the Gulf. It is stated that, he is desirous of taking the detinue out of the country. It was precisely the said apprehension that was expressed by her father in the proceedings before this Court on the earlier occasion. This Court has on the said occasion recorded the fact that since she was not possessed of a Passport, there was no likelihood of her being taken to Syria. The question that crops up now is whether the marriage that has been allegedly performed is not a device to transport her out of this country. We are not aware of the identity of the person who is alleged to have got married to the detinue. We are not aware of the antecedents of the said person or his family background. The address mentioned in the marriage certificate produced shows that he is from Kollam. In what manner he has come into contact with detinue and under what circumstances, the detinue has agreed to get married to

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a stranger like him are matters that require to be probed thoroughly. The marriage certificate shows that the marriage was performed by the Khazi at the house of the 7<sup>th</sup> respondent, Srambikal House, Puthur. Why the marriage was conducted at her house is not clear. Unless the above questions are answered, it cannot be accepted that the detainee is in safe hands. This Court exercising Parens Patriae jurisdiction has a duty to ensure that young girls like the detainee are not exploited or transported out of the country. Though the learned Senior Counsel has vociferously contended that the detainee is a person who has attained majority, it is necessary to bear in mind the fact that the detainee who is a female in her twenties is at a vulnerable age. As per Indian tradition, the custody of an unmarried daughter is with the parents, until she is properly married. We consider it the duty of this Court to ensure that a person under such a vulnerable state is not exposed to further danger, especially in the circumstances noticed above where even her marriage is stated to have been performed with another person, in accordance with Islamic religious rites. That too, with the connivance of the 7<sup>th</sup> respondent with whom she was permitted to reside, by this Court.

8. We place on record our absolute dissatisfaction at the manner in which the marriage if at all one has been performed, has been conducted. The 7<sup>th</sup>

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respondent having been a party to these proceedings had a duty to at least inform this Court of the same, in advance. This Court had relying on her credentials and assurance, permitted the detinue to accompany her and to live with her. We would have expected a reasonable litigant, which includes the detinue also who as we have noticed earlier, is represented through an eminent Senior Counsel of this Court, to have informed this Court and obtained permission from this Court before such a drastic course was undertaken. Considering the manner in which the marriage has been conducted, the secrecy surrounding the said transaction and also the hurried manner in which the whole exercise was completed, the entire episode is shrouded in suspicion. Unless the suspicion is cleared the detinue cannot be permitted to go with the person who is seen to be accompanying her now.

In view of the above, the following directions are issued.

1) The first respondent is directed to escort the detinue and to have her accommodated at the S.N.V.Sadanam Hostel, Chittoor Road, Ernakulam, until further orders. The first respondent shall ensure that she is not provided the facility of possessing or using a mobile phone. The petitioner and the mother shall be at liberty to meet her according to the rules and regulations of the hostel. No other person is permitted to meet her.



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2) The first respondent shall cause an investigation to be conducted into the education, family background, antecedents and other relevant details of Sri.Shafin Jahan who is stated to be the bridegroom of the alleged marriage that is stated to have been conducted on 19.12.2016 as evidenced by the certificate dated 20.12.2016 produced before us. The first respondent shall also enquire into the circumstances surrounding the conduct of such marriage, the persons who were involved in the conduct of the same the organization that has issued the marriage certificate, as well as their antecedents. A report of such investigation shall be placed before us before the next posting date of this case. The 4<sup>th</sup> respondent shall oversee the investigation and see that all relevant details are unearthed and placed before us including any links with extremist organizations, of which allegations are made in the Writ Petition.

3) The Secretary, Othukkungal Grama Panchayat is directed not to issue the marriage certificate sought for by the applicants Shafine Jahan and Hadiya as per receipt dated 20.12.2016, without further orders from this Court.

The petitioner shall bear the expenses for the accommodation of the detinue at the hostel.

Post on 6.1.2017."

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Accordingly, Ms. Akhila has been residing at the Hostel, till date.

14. In the above circumstances, this case was taken up again on 6.1.2017. On the said day, the Government Pleader placed before us a report dated 4.1.2017 of the Deputy Superintendent of Police, Perinthalmanna. However, on perusal, we found the report to be absolutely unsatisfactory. Therefore, we passed an order on 6.1.2017 placing on record our anguish at the lack of fortitude in pursuing the investigation. We also issued a direction to the 4<sup>th</sup> respondent, Director General of Police, to oversee the investigation, considering the seriousness of the matter. The said order reads as follows:

"Read our earlier order dated 21.12.2016.

2. The detainee has been produced before us, pursuant to the direction in our order dated 21.12.2016. The petitioner as well as Sri.Shafine Jahan, who is stated to have married the detainee, is also present in Court. We have heard the learned Government Pleader, the learned Senior Counsel Sri.S.Sreekumar, who appears for the detainee, Sri.C.Rajendran, who appears for the



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petitioner as well as Sri.P.K.Ibrahim, who appears for the seventh respondent.

3. The learned Government Pleader has placed before us a report dated 04.01.2017 of the Deputy Superintendent of Police, Perinthalmanna, who has conducted an investigation into the entire episode noticed by us in our order dated 21.12.2016, as per the directions contained therein. However the report is absolutely perfunctory and does not shed any light on the aspects on which we wanted the investigation to be conducted. There is nothing on record to indicate that, either the detinue or Sri.Shafine Jahan had any acquaintance with each other before the marriage that is alleged to have taken place. The report does not indicate how and in what circumstances, the decision to conduct the marriage was taken and by whom? It is stated that, no relative of the bride was present but that as many as 50 people had participated in the ceremony. We have in our earlier order, noticed the circumstances under which, we were all on a sudden informed that the detinue had got married according to the Islamic religious rites. Her parents are Hindus. On the basis of the information conveyed to us by her Senior Counsel that the detinue was desirous of continuing and completing her studies, we had posted the case on the said date for the purpose of passing orders regarding her continued education and completion of her course

which she had left unfinished. She was a student of Homeopathic Medicine. According to the learned Government Pleader, the investigation is still in progress, with the co-operation of the Cyber Cell and some more time is required for the investigation to be completed.

4. The learned Senior Counsel Sri.S.Sreekumar however complains that the detainee has been living a life of isolation in the Hostel where she is accommodated as per the orders of this Court. She wants to be set at liberty so that she could continue her studies. However, it was relying upon the said submission that, we had posted the case on 19.12.2016 for the purpose of issuing directions regarding her continued education. She has been accommodated in the Hostel only for the reason that she is unwilling to accompany her parents or to return home. Such accommodation has been ordered only for the purpose of ensuring her safety. Though the detainee was permitted to reside with the 7<sup>th</sup> respondent, she has proved to be unworthy of such trust by her conduct. She has been party to the alleged marriage of the detainee, which is stated to have been conducted at her house. Therefore, the detainee has to continue her residence at the Hostel, for the time being. However, since the detainee is accommodated in a Hostel at present, it is necessary that the investigation is completed at the earliest so that, this writ petition could be finally disposed of without delay. Though the learned



Government Pleader has requested for the grant of further time for the purpose of completing the investigation, we are of the view that these proceedings cannot be kept pending indefinitely.

5. In view of the above, we direct the Investigating Officer to complete the investigation within a period of two weeks. The Investigating Officer shall be at liberty to apprise the Cyber Cell of the urgency of the situation and the pendency of these proceedings, for the purpose of expediting the process of investigation. The Investigating Officer may also meet the detinue for the purpose of recording her statement for probing the circumstances under which the alleged marriage had taken place. We place on record our dissatisfaction at the investigation conducted so far. Though we had clearly indicated in our order dated 21.12.2016 regarding the aspects on which we wanted clarity through a proper investigation, the Investigating Officer does not appear to have taken into account any of the said circumstances. He shall therefore go through a copy of our order dated 21.12.2016 also and shall have the investigation conducted touching upon the various aspects referred to by us in the said order. We direct the fourth respondent to oversee the investigation giving due seriousness to the issue that the life of a young girl is at stake. We expect a better, more comprehensive and proper report to be placed before us by the next posting

date.

Post on 23.01.2017 at 1.45 p.m. The detainee shall be produced on that day."

Accordingly, a further report was submitted by the Deputy Superintendent of Police dated 30.1.2017. As per his report, it was stated that the alleged marriage of Ms.Akhila was conducted with the active involvement of the 7<sup>th</sup> respondent and without informing her parents. Therefore, we directed the 7<sup>th</sup> respondent to explain the circumstances under which the marriage proposal originated, the person at whose instance the detainee was registered at the matrimonial site and the manner in which the marriage proposal was considered and conducted. As per order dated 7.2.2017, we called for a report from the Police regarding the criminal antecedents of Sri. Shefin Jahan, who is alleged to have married Ms.Akhila. The case came up before us thereafter on 22.2.2017. On the said date, the 7<sup>th</sup> respondent filed a further affidavit and the Senior Government Pleader produced three additional documents along with a memo. They were also taken on record.



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Thereafter, the matter was heard. Since the counsel for the 7<sup>th</sup> respondent requested for further time to complete his arguments, he was granted further time.

15. According to Adv. C.Rajendran, who appears for the petitioner, Ms.Akhila is the only child of her parents. She was born a Hindu and was brought up in accordance with the Hindu faith. She was influenced and brainwashed by the two sisters, Ms. Jaseena and Ms.Faseena with the active involvement of their father Sri.Aboobacker. She was taken to various places and institutions where numerous persons had grilled her with fanatic interpretations of Quran and other sacred texts of the Islam religion. She was taken to various places with the object of forcing her to accept the Islamic faith. While joining BHMS Course, she was less than 20 years old and was in her impressionable age. Her vulnerable situation was taken advantage of to instill into her mind a hostility against even her parents, who had given birth to her and brought her up. Our attention is drawn to the statement filed by the Deputy Superintendent of Police

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to point out that, the involvement of one Sri.Shanib, his cousin Smt.Sherin Shahana and her husband Sri.Fasil Musthafa in influencing the mind of Ms.Akhila has been kept a secret by all the persons, who were involved. Attempts are made to safeguard Sri.Aboobacker, father of Ms.Jaseena and Ms. Faseena. It is contended that, the 6<sup>th</sup> respondent is an Organization that is aiding and facilitating illegal and forceful conversions. According to the counsel, the Organization has at its disposal unlimited resources in finances as well as manpower. Sri. Shefin Jahan is one such person who has been assigned to play the role of going through a sham of a marriage with Ms.Akhila, with the object of transporting her out of India. According to the learned counsel, it was with the said objective that the entire sequence of events had been planned and executed. The marriage was conducted in a hasty manner with the object of overreaching the jurisdiction of this Court.

16. According to the learned counsel, the petitioner's daughter, who was about to complete her BHMS



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Course by undergoing her House Surgeoncy, has been misled and influenced even to the extent of persuading her to abandon her studies and to leave her parents. She is a prisoner of the wrongful influence of respondents 6 and 7 and their Organization. She is not capable of even thinking properly at present. Respondents 6 and 7 have influenced her mind to such a great extent that, she would do anything for them. She is therefore in a vulnerable position from which she is necessary to be rescued and handed over to the petitioner, who shall take care of her and protect her from the evil influences that are now controlling her thought and actions. For the purpose, it is absolutely necessary, this Court issues appropriate writs and orders. According to the learned counsel, parental authority and control does not cease to exist the moment a child attains majority. The authority of the parents continues even in respect of a person who has attained majority, to protect the said person from going astray. Our attention is drawn to the decision of another Division Bench of this Court in Lal Parameswar v.

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Ullas (2014 (1) K.L.T. 937), in support of the above contention.

17. The counsel has also placed reliance on the decision of a learned Single Judge of this Court in Shahan Sha A v. State of Kerala (2010(1) KHC 121) to point out that, this Court has recognized the existence of forcible conversion by radical groups working in various parts of Kerala influencing young girls from other communities and forcibly converting them to the Islamic faith. The counsel also places reliance on the situation that was brought to light in W.P.(Crl.) No. 235 of 2016, another habeas corpus petition pending before this Court. In the said case, another Hindu girl by name Ms.Athira, who had been forcibly persuaded to embrace Islam was directed to be sent along with her parents. The learned counsel points out that, the modus operandi in the said case is similar to the one adopted in this case with the only difference that instead of the 7<sup>th</sup> respondent, there was another lady with whom the girl in the said case was residing. It is therefore contended



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by the learned counsel that, this is a case in which the petitioner's daughter should be directed to accompany the petitioner and to return home. Otherwise, her career as well as future would be at peril, it is contended.

18. The Senior Government Pleader, who represents respondents 1 to 4 generally supports the contentions put forward by the counsel for the petitioner. Pursuant to the orders passed by us at various stages of this writ petition, a number of reports have been filed before us, placing on record the details of the investigation conducted by the Police and the conclusions that follow from such investigation. According to the learned Senior Government Pleader, Ms.Akhila, though born of Hindu parents and brought up as a Hindu, had been subjected to influences of various kinds at the instance of a number of people with the object of converting her and compelling her to accept the Islamic faith. The efforts started at the instance of her room mates Ms.Jaseena and Ms. Faseena and was continued by their father Sri.Aboobacker and later on by Sri.Shanib, his

cousin Smt.Sherin Shahana and her husband Sri.Fasill Musthafa. It was thereafter that, the 6<sup>th</sup> and 7<sup>th</sup> respondents took over. According to the learned Senior Government Pleader, Ms.Akhila has been influenced by feeding her with graphic details of hell and the torments that sinners are subjected to in their life after death. She has also been made to believe that in order to escape from the torments of hell, acceptance of the Islamic faith was the only way. According to the report dated 15.12.2016, it is stated that Ms.Akhila believed that Islam would help her to reach heaven after death. According to the learned Senior Government Pleader also, this is a case of forcible conversion to Islam. It is contended that, the alleged detainee Ms. Akhila is not capable of taking an informed decision on her own, having been influenced by respondents 6 and 7.

19. It is further pointed out that, the alleged marriage of Ms.Akhila is only a sham, intended to scuttle the jurisdiction of this Court. Mr. Shefin Jahan, the alleged



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bride groom, is a worker of the Organization that is behind the conversion. He has criminal antecedents and is an accused in a criminal case. The marriage is only a camouflage to cover up the real object of respondents 6 and 7 to take Ms.Akhila out of the country. According to the Senior Government Pleader, Sri.Shefin Jahan was in some Gulf country. He is jobless at present having left the Gulf on an exit visa. Though he claims that he has obtained a job at a place called Asiba, Oman, he is present in court on all the posting dates of this case after the date of alleged marriage. Therefore, it is contended that he is still jobless.

20. It is pointed out by the learned Senior Government Pleader that, though the marriage is alleged to have taken place on 19.12.2016, the fact remains that Sri.Shefin Jahan, who is very active on face book had not disclosed the same in his face book page. He is a person who has posted on the face book, even minor details of his everyday life. While so, a news item appeared in the Mathrubhumi daily dated 10.1.2017 regarding the direction

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of this Court to the Police to probe the details of the marriage of Ms.Akhila. It was only thereafter at 9.55 p.m. on 10.1.2017 that Sri.Shefin Jahan posted the photo of his Nikah in the face book. He has also updated his profile picture with his own photo and the photo of Ms.Akhila. The above circumstances are relied upon to point out that no genuine marriage had taken place on 19.12.2016. Sri. Shefin Jahan's explanation that it was only on account of the interim order of this Court directing the Panchayat not to register their marriage that he had not disclosed his marriage in his face book account is only a make-believe. It is not a convincing explanation.

21. The learned Senior Government Pleader also points out various discrepancies in the entries made in Exts.R1(a) and R1(b) to contend that, the said documents cannot be accepted as genuine. The discrepancy in the name that is said to have been adopted by Ms.Akhila after she had embraced Islam also varies, it is pointed out, strengthening the suspicion that surrounds the entire



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sequence of events in the present case.

22. According to the learned Senior Counsel Sri.P.Ravindran, who appears for the 6<sup>th</sup> respondent, the said institution is a charitable trust engaged in providing instructions and education to persons from other religions who have embraced Islam. Courses of different duration are conducted by the institution. The inmates are provided with books and study materials. They are imparted instructions and training in the various aspects of Islamic faith so as to prepare them to follow the religion in its true spirit. Ms.Akhila had undergone a two month's course. She was neither influenced nor forced by the 6<sup>th</sup> respondent as alleged by the petitioner. The allegations in the writ petition are false and baseless. All the allegations have been denied by a proper counter affidavit filed in the case. Therefore, the learned Senior Counsel seeks dismissal of the writ petition.

23. Adv. P.K. Ibrahim, who appears for the 7<sup>th</sup> respondent points out that, the petitioner had earlier

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approached this court by filing W.P.(Crl.) 25 of 2016. Another Division Bench of this Court had interacted with Ms.Akhila and found that she was a major, capable of taking independent decisions on her own and had permitted her to accompany the 7<sup>th</sup> respondent since she was not willing to go with her parents. Thereafter, she has been living with the 7<sup>th</sup> respondent, who was taking care of her. She has appeared before this Court on all occasions on her own, demonstrating that she was not under any illegal detention, that she was free to pursue her own convictions and beliefs. The allegation of the petitioner therefore that she under the illegal detention of the 7<sup>th</sup> respondent is false and baseless. In the present writ petition also, she had appeared in court on her own. She had not evaded the process of court at any time. She is represented in these proceedings through counsel, whom she has engaged. Therefore, the allegation that she is under illegal detention, does not stand to reason and can only be rejected. According to the learned counsel, the 7<sup>th</sup> respondent has sufficient income to maintain



Ms.Akhila. She provides services as a Counsellor earning Rs.2,000/- from family counselling. A further amount of Rs.7,000/- is earned by her from assisting the cashew nut business of her husband. Her husband Sri.Aliyar earns an amount of Rs.15,000/- as profit from his business. She has agricultural income of Rs.2,40,000/- per year. The said income is sufficient to take care of Ms.Akhila, it is contended. The 7<sup>th</sup> respondent is a social worker and therefore, there is nothing wrong in her act of providing help to Ms.Akhila in her time of need. She is only activated by the kindness that is necessary to be shown to any young lady in distress.

24. According to Adv.P.K.Ibrahim, the alleged detainee has a fundamental right under Article 25 of the Constitution guaranteeing her freedom of conscience and expression. She being a person who has attained majority has the freedom to follow a faith of her choice and no one, not even her parents, have the authority to stand against her wishes. She had decided to reside with the 7<sup>th</sup>

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respondent who was responsible for her safety and security. In April, 2016, she had expressed her desire to get married to a Muslim. Accordingly, her name had been registered in the matrimonial site by name 'way to Nikah'. It was through the site that, the proposal of Sri. Shefin Jahan had come. She had interacted with the said person and had decided to get married to him. According to the learned counsel, the 7<sup>th</sup> respondent has only acted as per her wishes, which fact is evident from her affidavits filed in this case. Therefore, it is contended that, the above writ petition is only to be dismissed. The learned counsel has also places reliance on a number of decisions of the Apex Court where the right of a female who has attained majority to choose a person as her spouse, though belonging to a different religion, has been recognized. Following the said dicta, it is contended that Ms.Akhila also may be permitted to accompany her husband and to live a life in accordance with her wishes. The allegations made in the writ petition against the 6<sup>th</sup> and 7<sup>th</sup> respondents are stoutly disputed by the counsel as mere



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figments of imagination of the petitioner.

25. As we have already noticed above, the alleged detainee Ms.Akhila has appeared in this case through a lawyer. She has also sought to get herself impleaded as an additional respondent in this case. Though we have not allowed the impleading petition, she has filed a counter affidavit as well as other petitions in these proceedings, describing herself as the 8<sup>th</sup> respondent. We place on record the fact that initially Adv.P.Sanjay and Smt.Parvathy Menon had appeared for Ms.Akhila. They have filed I.A. No. 14827 of 2016 to implead Ms.Akhila as the additional 9<sup>th</sup> respondent in the writ petition. The same is dated 4.9.2016. She has thereafter filed a counter affidavit in the writ petition describing herself as the 8<sup>th</sup> respondent, which is dated 24.10.2016. However, as per the records of this Court, and the information furnished by the Registry, no vakalath was filed by the said advocates for Ms. Akhila. Subsequently, Sri.C.M. Mohammed Iqubal started representing Ms.Akhila along with Senior Counsel

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Sri.S.Sreekumar. An additional counter affidavit dated 26.11.2016 was filed thereafter producing two additional documents Exts. R8(d) and R8(e). Sri.C.M. Mohammed Iquabal has started appearing for Ms. Akhila without obtaining a no-objection certificate from the former counsel, which would have been necessary, had Adv. P.Sanjay and Smt. Parvathy Menon filed their vakalaths. There is no explanation forthcoming for the above discrepancy.

26. The counsel for Smt. Akhila towed the line of argument pursued by Adv. P.K.Ibrahim on behalf of the 7<sup>th</sup> respondent. According to the Counsel, Ms. Akhila became attracted to the teachings of Islam and her friends Ms. Jaseena and Ms.Faseena only helped her in providing a means of learning more about Islam. Thereafter, Sri.Aboobacker only tried to put her in some institution that would provide her necessary instruction in the pursuit of her studies of Islam. She has narrated in detail, the circumstances under which she had to leave her parents and



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her home and take refuge with the 7<sup>th</sup> respondent. She has attained majority. She is a graduate in BHMS and is possessed of sufficient knowledge and capacity to take an informed decision on her own. She had refused to go with her parents because she was certain that she would not be permitted to pursue her faith, in her house. According to her, she had registered her name in the matrimonial site. Sri. Shefin Jahan's proposal had come through the said site. She had interacted with the said person. The marriage was conducted with her full knowledge and consent. The allegations made against her husband by the petitioner are baseless. He has no connection with any extremist organization. He is an active member of the political party, Social Democratic Party of India (SDPI). However, the existence of a criminal case against him is admitted. He has characterized the incident as a political issue with AIYF activists. Our attention is drawn to the fact that he had explained his face book posts and that, they are not to be taken serious note of. In short, according to the counsel, it

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is Ms.Akhila herself who has brought about the present state of affairs in which she is placed. She being a person who has attained majority has every right to do so. It is therefore contended that, this writ petition is only to be dismissed.

27. Heard. Ms.Akhila is a young girl, who is aged only about 24 years at present. She is the only daughter of her Hindu parents. She was brought up as a Hindu, in accordance with the faith of her parents. She had joined the BHMS Course at the Shivaraj Homoeopathy Medical College at Salem. According to her, she had become attracted to the Islam religion about three years prior to her disappearance. She must therefore have been hardly 20 years of age at that time. She had disappeared from her home on 7.1.2016.

28. While studying for her BHMS Course, she was initially residing in the Hostel. She had failed in all her subjects during the first year, but she had cleared the papers later on through supplementaries. While she was



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K. SURENDRA MOHAN & K. ABRAHAM MATHEW, JJ.

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W.P. (Crl.) No. 297 of 2016  
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Dated this the 24<sup>th</sup> day of May, 2017

JUDGMENT

Surendra Mohan, J.

This writ petition for the issue of a writ of habeas corpus is filed by the father of a girl by name, Ms.Akhila. This is the second time that the petitioner is approaching this Court. The earlier writ petition, W.P.(Crl.) 25 of 2016 was disposed of by another Division Bench of this Court on 25.1.2016 permitting Ms.Akhila, the alleged detainee, to continue her residence with the 7<sup>th</sup> respondent herein. This writ petition was filed apprehending that the alleged detainee was likely to be transported out of the country. This writ petition was admitted on 17.8.2016 and an interim order directing respondents 1 to 4 to keep her under surveillance and to ensure that she was not taken out of the country without further orders from this Court was issued. The said order is still in force.

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residing in the Hostel, she complained about the quality of the food served and shifted residence to a house that was taken on rent along with four other friends. It is not in dispute that, initially they had engaged the services of a lady cook, but later on they started preparing food themselves. Ms. Jaseena and Ms. Faseena, who are sisters were her friends. She had frequented their house on various occasions and also had come into contact with their father Sri. Aboobacker. It is an admitted fact that, Sri. Aboobacker had also tried to help her to admit her in some institution providing special courses for converts to Islam. According to the affidavit dated 4.9.2016 filed in support of her impleading petition, I.A. No. 14827 of 2016, she had started following Islam for the past three and a half years. But, she has formally announced the 'change of faith' only now. Ms. Akhila therefore wants to and has been trying to give an impression to this Court that her formal conversion had taken place only in the year 2016. However, a perusal of the Case Diary of Crime No. 21 of 2016 of Perinthalmanna



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Police Station ('CD' for short) made available to us by the learned Senior Government Pleader shows that she had sworn to an affidavit on 10.9.2015 before Sri. Devy A.C., Advocate and Notary, Lawyers Line, 2<sup>nd</sup> floor, Infant Jesus Building, Cochin-31. In her affidavit, which is notarized, she states that she was living her life according to the Islamic ethics without anybody's compulsion and that she had chosen a Muslim name, 'Aasiya'. The CD also contains the statement of Smt.Sherin Shahana, aged 20 years, who is the wife of one Sri.Fazal Musthafa, residing at Mangalapuram (Mangalore). She claims to have completed her plus two course and was studying at the Arabic College at Thalassery. She states that she has been residing with her husband for two months at Mangalore. According to her, she was introduced to Ms.Akhila by her cousin (father's younger son) Sri.Shanib who had met her through chatting. She states that Ms. Akhila had contacted her over phone because she wanted to accept Islamic faith and to know about Islam. She claims that they were in constant contact

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over phone. In September, 2015, she had asked Ms. Akhila to reach Ernakulam. Accordingly, they had met at the Kaloor Bus stand, for the first time. Thereafter, they had again met once more. At that time, they had dropped her near her house. She does not know her parents. She had chosen the name 'Aasiya' from among a number of other names suggested by Smt. Sherin Shahana. She also claimed to have talked to Ms. Jaseena and Ms. Fazeena. According to Smt. Sherin Shahana, Ms. Akhila had called her again on 4.1.2016 informing her that she was proceeding to Kozhikode for getting admitted to some institution there to study about Muslim religion. Though she requested her to come to Mangalore, she disconnected the phone offering to intimate her decision later. Thereafter, though she had tried to contact Ms. Akhila on getting information that she was missing from home, her telephone was out of range. According to her, the affidavit of 10.9.2015 was got executed by her husband because of the propaganda around that Hindus were being converted to Muslim



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religion.

29. The statement of her husband Sri. Fasal Musthafa shows that he is aged only 23 years, that he is a person from Kannur. His parents and other members of his family are at Lakshadweep. According to him, he was studying at the Darul Huda Mosque at BC Road, Mangalapuram. He also claims that they were introduced to Ms. Akhila by his wife's cousin, Sri. Shanib, that Ms. Akhila was in constant contact with his wife clearing her doubts about Islam. He is a person who used to visit Ernakulam frequently with his wife. In 2015, September, his wife had called Ms. Akhila when they were at Ernakulam. Thereupon, she had come to the Kaloor Bus stand. It was on the said date that his wife recited the necessary verses and made her accept Islam religion. According to him also, she had assumed the name "Aasiya". She had travelled with him and his wife in their car and was dropped off close to her house. According to him also, he had got the affidavit executed because of the wide propaganda all around that Hindus

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were being converted to Muslim religion.

30. It is worth noticing that the role of Smt.Sherin Shahana and her husband Sri. Fazal Musthafa has not been disclosed by either Ms. Akhila or by the other respondents in this case. It is true that the CD contains the statements of the said two persons. However, Sri. Shanib does not appear to have been questioned. According to Smt. Sherin Shahana, she was in constant contact with Ms.Akhila over telephone. However, the Investigating Officer has not made any attempt to obtain the details of the calls so made or to probe the roles of Sri.Shanib, Smt.Sherin Shahana or her husband, Sri. Fasal Musthafa. No attempt to ascertain the veracity of the statements also has been made. The fact remains that Ms. Akhila has sworn to an affidavit before a Notary assuming the name 'Aasiya' on 10.9.2015. We notice that Smt.Sherin Shahana is a person who has completed her plus two and was pursuing her studies in the Arabic College at Thalassery. They had been staying in Mangalore only for a short period prior to the date of giving



the statement. Sri.Fasal Musthafa, aged 23 years is studying in a Mosque. The omission to probe the role of the said persons in the entire episode is a serious lapse on the part of the Investigating Officer. Whether any other persons were involved, also has not been probed. The antecedents of the said persons, the nature of the activities in which they were involved as well as other attendant circumstances, would have shed some light on the circumstances that influenced Ms.Akhila to accept Islam. There are clear indications that the said persons are persons involved in the study of Muslim religion.

31. A perusal of the affidavits filed by Ms.Akhila in this Court reveals another discrepancy that relates to her name. We notice that, she had filed W.P.(C) No. 1965 of 2016 along with the 7<sup>th</sup> respondent, who is the 2<sup>nd</sup> petitioner, describing herself as 'Akhila Ashokan @ Adhiya' showing her address as 'Devikripa, T.V. Puram, Vikkam, Kottayam.' It is interesting to notice that Adv. P.K.Ibrahim, the present counsel for the 7<sup>th</sup> respondent in this writ

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petition, was the counsel appearing for the petitioners in the said case. In the said writ petition, they complained against Police harassment. The said writ petition was later on dismissed as withdrawn by judgment dated 21.1.2016. However, there is no explanation as to how Ms. Akhila became 'Adhiya'.

32. In the present writ petition, in her affidavit dated 4.9.2016 as well as in her affidavit filed on subsequent dates, she describes herself as 'Akhila Asokan @ Hadiya'. There is no explanation forthcoming as to how her name has undergone a further change. If the statement of Smt. Sherin Shahana referred to earlier is to be believed, Ms.Akhila had chosen the name 'Aasiya' from a list of names suggested to her. If she had chosen the name 'Aasiya;' as stated, why did she change her name? Is it to create a confusion regarding her identity as contended by the counsel for the petitioner as well as the learned Senior Government Pleader? Or has she been acting at the dictates of some others who have been orchestrating her actions for



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the past few months? Despite repeated directions to the Investigating Officer in this case, the Deputy Superintendent of Police, Perinthalmanna, no investigation worth the name has been conducted. The CD only contains the statements of a number of persons recorded and kept filed therein. No efforts to cross check the veracity of the statements or to unearth further materials by probing the leads that have come up is significantly absent. The Deputy Superintendent of Police, Perinthalmanna, the Investigating Officer, has done no investigation worth the name, in this matter. The investigation in this case was entrusted to him considering the seriousness of the issues involved, the widespread allegations of forcible conversion that were coming up and the national interest that is at stake. However, his conduct in the present case leaves a lot to be desired. Either he has been influenced and subjugated into a studied inaction or he lacks the alertness and competence that is expected of an Investigating Officer probing an issue of such seriousness. The fourth respondent shall therefore initiate

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and conduct a full-fledged enquiry into the lapses on the part of the Investigating Officer in investigating the complaint in this case and shall, if necessary, pursue departmental proceedings against the officer concerned. We do not want to say anything further on this aspect.

33. As already noticed above, the attempt of Ms.Akhila as well as respondents 6 and 7 is to make this Court believe that the entire episode was perpetrated by Ms.Akhila herself who had developed an intense attraction to the teachings of Islam and wanted to embrace the said religion. However, there are too many incongruities that militate against the story that is put forward.

34. In the first place, it is not normal for a young girl in her early 20s, pursuing a professional course, to abandon her studies and to set out in pursuit of learning an alien faith and religion. The normal youth is indifferent towards religion and religious studies. Though the possibility of genuine interest in the study of religion on



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the part of any person cannot be ruled out, such inclination is in the first place out of the ordinary. Though the alleged detainee in this case is stated to have set out to study Islam, her study has been confined to merely attending a course of two months duration conducted by the 6<sup>th</sup> respondent. She does not appear to have conducted any study thereafter. In the present case, the academic records of Ms.Akhila show that she was not a bright student. She had failed in all her subjects in the first year. Of course, she cleared all the papers later. She has completed her BHMS Course and what remains to be completed is only her House Surgeoncy, for acquiring eligibility to practice. What is it that has compelled her to abandon her studies, her parents and her family and to embark upon a pursuit of religious studies? On the admitted facts, she developed an interest in Islam through her contacts with Ms.Jaseena and Ms. Faseena who are her classmates. She has also had interaction and constant contact with Sri.Shanib, Smt.Sherin Shahana and Sri.Fasal Musthafa, who were all in their earlier 20s as we

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have already noticed above. Curiously enough, the Investigating Officer has not considered it necessary to investigate or ascertain the nature of the activities or the antecedents of any of these persons. Ms. Akhila only gives a vague statement in her affidavit that she had acquired knowledge about Islam by 'reading Islamic books and also viewing interesting videos.' What are the materials on the basis of which she had developed an interest in Islam religion is unavailable. Are there any radical organizations involved, are questions that plague an inquisitive mind. But sadly, there are no answers available in this case. Be that as it may, it is not our concern or attempt to decide whether Ms. Akhila should follow Islamic faith or the Hindu faith. The question of faith and religion are matters of personal conviction and this court does not consider it necessary to interfere in such matters that are personal to Ms. Akhila. However, what concerns this Court is the decision of hers that, she does not want to live with her parents. She is from Vaikom in Kottayam District. She was studying at Salem in



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Tamil Nadu. At present, she is at Kottkkal an alien place about 240 KM away from her home town. It is also far away from Salem where she was studying. She has had no acquaintances at the said place in the past. In the context, the role of the 7<sup>th</sup> respondent in providing a haven for her is necessary to be examined. The further conduct of the 7<sup>th</sup> respondent in having the alleged marriage of Ms.Akhila conducted also requires to be scrutinized.

35. As we have already noticed, the petitioner in this case had earlier filed W.P.(CrI.) No. 25 of 2016 seeking a writ of habeas corpus against the detention of Ms. Akhila wherein the 7<sup>th</sup> respondent was not a party. The allegation in the said case was that she was under the illegal detention of Ms.Jaseena and Ms.Faseena and their father Sri.Aboobacker. In the said case also, after this Court had directed the Government Pleader to get instructions by order dated 14.1.2016, Ms.Akhila had entered appearance through counsel, Adv.P.K.Ibrahim on 19.1.2016. She also filed I.A. No. 792 of 2016 to get herself impleaded in the

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writ petition as the 9<sup>th</sup> respondent. The said affidavit is dated 19.1.2016. It was on the previous day, 18.1.2016 that she had filed W.P.(C) No. 1965 of 2016, along with the 7<sup>th</sup> respondent herein as petitioners, alleging Police harassment. In her affidavit, she had put forward the very same contentions, namely that, the entire episode was the result of her own desire to embrace Islam as her faith. This Court accepted her stand in the affidavit, took note of the fact that she was accompanied by the 7<sup>th</sup> respondent and the further fact that she was desirous of joining the 6<sup>th</sup> respondent institution for a course offered by them, and permitted her to pursue her faith. However, this Court took care to insist that proof regarding admission of Ms.Akhila to the institution be produced. Accordingly, documents were produced showing that she had been admitted to the said institution on 20.1.2016. This Court also noted that she was staying in the Hostel of the said institution. Therefore, it was found that there were no grounds available for the issue of a writ of habeas corpus as prayed for in the writ



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petition. In view of the above, the same was disposed of recording the fact that Ms.Akhila was staying at the hostel of the 6<sup>th</sup> respondent and permitting her family members to visit her at the institution. The operative portion of the said judgment reads as follows:

"7. When the case is taken up for consideration on today, counsel appearing on behalf of the alleged detainee had produced documents to show that the alleged detainee got admission in an institution namely 'Markazul Hidayah Sathyasarani Educational & Charitable Trust at Karuvambram, Manjeri in Malappuram District. The documents will reveal that she is admitted in the said institution on 20.1.2016. Learned counsel for the alleged detainee submitted that she is staying in the Hostel of the said institution. Learned Government Pleader submitted that, statement of the alleged detainee required for the purpose of investigation of the case has already been recorded.

8. Under the above mentioned circumstances, we are convinced that the alleged detainee is not under any illegal confinement. She is at present staying in the above said institution on her own wish and will. She is not under illegal confinement. Therefore, there exists no circumstances warranting interference for issuance of any writ of Habeas Corpus. Hence the original petition is

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hereby disposed of by recording the fact that the alleged detainee is staying in the above said institution on her own free will. It will be left open to the petitioner and her family members to make visit to her at the above institution, subject to regulations if any regarding visiting time."

36. The present writ petition was filed on 16.8.2016 alleging that there was a likelihood of Ms.Akhila being transported to Syria at the instance of the 6<sup>th</sup> respondent. He has also alleged the involvement of radical Muslim organizations that are engaged in transporting in girls who are converted to Islam, out of India. In this writ petition, Ms.Akhila had appeared in Court in the company of the 7<sup>th</sup> respondent, after the Police authorities had informed this Court that she had decamped from the place where she had been residing last. It is also not clear how Ms.Akhila had landed back in the custody of the 7<sup>th</sup> respondent after this Court had permitted her to remain in the hostel of the 6<sup>th</sup> respondent. Since the petitioner has alleged in the writ petition that she was likely to be taken out of the country and since the Police investigation was remaining



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inconclusive, she was directed to be accommodated in a ladies hostel at Ernakulam until further inputs were available. However, as we have already narrated earlier, she was later on permitted to accompany the 7<sup>th</sup> respondent and to reside with her. Even at that time, this Court stipulated that in the event of any change in her residence, Ms.Akhila shall inform the fact to the Deputy Superintendent of Police, Perinthalmanna in writing and furnish the available residential address and the telephone number over which she could be contacted. It is clear from the above that Ms.Akhila was only permitted to reside with the 7<sup>th</sup> respondent. She however has understood the said order of this Court as having conferred on her a right to act as the guardian of Ms.Akhila. Both herself and her husband have arrogated to themselves the role of the guardianship of Ms.Akhila and it is alleged that they have given her in marriage to Mr.Shefin Jahan. This Court was kept totally in the dark regarding the said developments. In fact the sequence of events reveal a deliberate attempt to force the

hands of this court and to face this court with a fait accompli. We shall examine the sequence of events again for the purpose of clarity of understanding.

37. When the case came up before us on 14.11.2016, after hearing the respective counsel, we noticed that Ms.Akhila was residing with the 7<sup>th</sup> respondent in her house. We were told at that time that the 7<sup>th</sup> respondent was a housewife, while her husband was a small time business man dealing in cashew nuts. Though a lot of allegations were levelled by the counsel for the petitioner against respondents 6 and 7, we noticed that Ms.Akhila was aged only 23 years, and that she had not completed her House Surgeoncy. Since the Senior Counsel Sri.S. Sreekumar had submitted that she had become a qualified medical practitioner in Homoeopathy and was earning income sufficient to maintain herself, we directed Ms.Akhila as well as the 7<sup>th</sup> respondent to disclose the sources of their income in separate affidavits and to produce proof of qualification of Ms.Akhila and the Ration Card of the 7<sup>th</sup> respondent.



Accordingly, Ms. Akhila filed an additional counter affidavit dated 26.11.2016 wherein she has disclosed that she had completed her Homoeopathic Course from Shivaraj Homoeopathic College, Salem in 2016. However, it is admitted in her affidavit that she did not thereafter pursue her House Surgeoncy for which she had joined in October, 2015. Instead, according to her, she went to Tharbiyathul Islam Sabha and was permitted to register with them. Thereafter, according to her, she went to the College on 6.1.2016 wearing the head dress worn by Muslim females. Thereupon, her parents were informed of the said change in her attire and they tried to persuade her to return home to which she did not accede. She was residing with the 7<sup>th</sup> respondent thereafter, who, according to her, was taking care of her along with her children. She has disclosed in her affidavit that her next batch of House Surgeoncy would start on 28.6.2017 and that, if her father returned her Certificates, she could complete her studies by undergoing the House Surgeoncy. Only after completing her Course,

could she attend a Clinic for practicing Homoeopathy so as to earn a livelihood. On the date of the filing of the said affidavit, she was having an income of only Rs.2000/- that was being paid to her as per Annexure R8(d) by the practitioner with whom she was working as a trainee. Ext.R7(k) is copy of the Ration Card of the 7<sup>th</sup> respondent. The monthly income of her family is shown therein as Rs.2,000/- only. Though she had stated in her affidavit that she has other sources of income, no documents in proof thereof have been produced. Even assuming the said statements of hers also to be true, her total income can only be described as modest. However, it is worth noticing that an expensive Senior Advocate is appearing for Ms.Akhila, who has only an income of Rs.2,000/- per month, while an Advocate of considerable standing is appearing for the 7<sup>th</sup> respondent.

38. It is clear from the facts and circumstances of the present case, that neither Ms.Akhila, who is the alleged detainee, nor the other respondents in this case who are



contesting the matter have any paucity of funds. It is further clear from the facts and circumstances of the case that respondents 6 and 7 as well as Ms.Akhila have had the support and active assistance of a number of persons at various stages, clearly pointing to an organizational backing. Ms. Akhila is from Vaikom in Kottayam District, whereas the 7<sup>th</sup> respondent is from Kottakkal. Ms.Akhila was studying at Salem in Tamil Nadu. In spite of these places being at considerable distance, Ms.Akhila has had no trouble in travelling freely between the places both when she was a student and also after she had abandoned her studies. She is stated to have come to Ernakulam and met Smt.Sherin Shahana and her husband more than once. The question as to how she had found money for the said purposes, remains unanswered. She has had the support and help of a number of persons, throughout. The 7<sup>th</sup> respondent and their family with their modest income could not have borne the said expenses on their own. One common factor that links all the players in the transactions

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in this case is that, they are either members of the SDPI, the National Front or one or the other of its sister organizations. Even Sri.Shefin Jahan, who is alleged to have married Ms.Akhila, is an activist of SDPI. At any rate, there are sufficient materials available to justify a conclusion that there are forces acting from behind the curtains controlling Ms.Akhila and extending all necessary support to her. However, the Investigating Officer has not conducted any enquiry into the above aspect of the matter, nor has he made any attempt to probe the activities of the said organizations and antecedents. Since it is clear that, there are other players behind the scenes controlling Ms.Akhila, her case that everything has been at her instance, cannot be accepted. She has deliberately concealed her association with Sri.Shanib, Smt.Sherin Shahana and Sri.Fasal Musthafa from this Court. She has also been trying to play down the role of her friends Ms.Jaseena and Ms.Faseena and their father Sri. Aboobacker.



39. Our interaction with the detainee when she was brought before us, gives us an impression that, she is only an ordinary girl of moderate intellectual capacity. She appeared to be repeating verses and quotations in Arabic that she has apparently memorized. According to the Police, and the Senior Government Pleader, she has been made to believe that she would go to hell if she did not accept Islam and is under such a belief. She also appears to be a gullible person. A hostility to her parents also has been instilled into her. It could also be that, she is under some sort of compulsion that is binding her to the 7<sup>th</sup> respondent and others who are controlling her. She has not impressed us as a person who is capable of taking a firm and independent decision on her own. Her conduct so far also supports our above view. She had completed her BHMS and was on the verge of getting professionally qualified upon completing her House Surgeoncy Course. According to her, she had also joined for a House Surgeoncy Course. However, she abandoned her professional studies to embark

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upon religious studies, which cannot be accepted as the normal human conduct of a girl aged 20 years. Thereafter, she stated before Court that she wanted to complete her House Surgeoncy. When this Court wanted to permit her to undertake her House Surgeoncy Course, we are informed that she had got married. Her conduct cannot be accepted as that of a person who is possessed of her faculties. She has no idea as to what she wants in life. She appears to be under the control of someone else. It is evident that she has been indoctrinated and influenced by persons whose identities have not been ascertained. An attempt is made in these proceedings to give an impression that all the other players involved have acted only on the request of Ms. Akhila. Such a story is unbelievable. The Police authorities could have unearthed materials, had they probed the call details of Ms.Akhila. No such attempt has been made in the present case.

40. In this context, it is necessary to mention that there was another case with which this Court had to



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deal. The same is W.P.(Crl.) No. 235 of 2016. In the said writ petition filed by another hapless father, the complaint was regarding the forcible conversion of one Ms.Athira, his daughter to the Islamic faith. She was a Hindu girl, who, as in the present case, contended that she had embraced Islam of her own free volition. However, the investigation by the Circle Inspector of Police, Cheruplassery, Palakkad District, who had registered Crime No. 50 of 2016 and investigated the same, found that she had been influenced through continuous telephonic conversations. In the said case, the role of the 7<sup>th</sup> respondent was played by one Smt. Sheena Farzana, and her husband Sri.Mujeeb Rahman, Pattikkad,

in Kozhikode District, a painter. All the players in

the said case were 500 P.P.E. activities. The 7<sup>th</sup> and

the present case is also said to have had connection

the conversion in the said case. It is stated that the

respondent herein had advised Ms.Athira to get in

harshly so as to avoid interference from court.

In the said case, the perpetrators were arrested and the

proceedings are going on. The said writ petition has not been finally disposed of for the reason that, the main accused in the said case, one Sri.Noufal Kurikkal is still at large, remaining outside the country. The modus operandi adopted in both these cases are similar. The girls in both these cases belonged to middle class Hindu families. It was found on analysing the call details of the girl in the said case that, she had been contacted over her mobile phone for more than 600 hours during a short span of time, mostly at odd hours of the night, prior to her disappearance from home. In the said case also, the girl had initially refused to accompany her parents, but she later on realized her folly and has been reunited with her parents. The similarities between the two cases is clear and unmistakable. In the said case also, the girl had appeared in court on her own seeking to get impleaded as a party, as in this case. It is interesting to note that, the counsel for the 7<sup>th</sup> respondent in this case Sri.P.K.Ibrahim was representing her in the said case. This court can only express regret that the



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Investigating Officer in the present case has not sought the co-operation of the Investigating Officer in the said case in spite of the striking similarities. In view of the circumstances noticed above, it is absolutely necessary that a proper investigation that is comprehensive in all respects is conducted into these episodes to get at the truth. Such an investigation would have to be supervised and controlled by the 4<sup>th</sup> respondent himself. Any other officer of a lower rank, would not have the freedom to conduct such a full-fledged investigation, due to jurisdictional and other constraints.

41. In the present case, we are now faced with the plea that Ms.Akhila has contracted a marriage. This is not a case of a girl falling in love with a boy of a different religion and wanting to get married to him. Such situations are common and we are familiar with them. In all such cases, this Court has been consistent in accepting the choice of the girl. However, the case here is different. It is an admitted case that this is an arranged marriage.

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Ms.Akhila had no previous acquaintance with Sri.Shafin Jahan. According to her, she had registered her name at a matrimonial site by name 'way to Nikhah'. The marriage proposal had originated from Sri.Shafin Jahan in response to her profile that was available at the site. The case of the 7<sup>th</sup> respondent is that, she had, on the request of Ms.Akhila, acted as her guardian and her husband had given her in marriage in accordance with Islamic religious rites.

42. It is necessary at this point to notice the context in which the marriage has taken place. On 14.11.2016, we had expressed our dissatisfaction at the continued residence of Ms.Akhila in the house of 7<sup>th</sup> respondent, a stranger. Therefore, we wanted the detinue to produce proof of her qualifications and the 7<sup>th</sup> respondent to disclose her sources of income. Accordingly, Ms.Akhila has sworn to an additional counter affidavit on 26.11.2016 wherein she has stated that if her father returned her certificates, she could complete her House Surgeoncy Course. In her counter affidavit dated



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24.10.2016 she has stated in very clear terms that her only desire was to complete her course and to serve the humanity in her own mother land. The 7<sup>th</sup> respondent has also sworn to an affidavit on 25.11.2016 disclosing her sources of income. Nobody had a case at that time that Ms.Akhila wanted to get married. It was relying on the said affidavit as well as the submission made by Sri.S.Sreekumar, the Senior Counsel, who was appearing for Ms.Akhila, that we passed the order dated 19.12.2016 directing Ms.Akhila to appear before us on 21.12.2016 for the purpose of directing her to proceed to her College along with the petitioner herein to complete her House Surgeoncy Course. The marriage of Ms.Akhila is also alleged to have been conducted on the very same day, 19.12.2016. It is clear that the alleged marriage is only a make-believe, intended to take the detainee out of reach of the hands of this Court.

43. This writ petition is dated 16.8.2016. In the writ petition, the petitioner has alleged that efforts were on to conduct a fake marriage of Ms.Akhila without her consent

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and free will to a Muslim associated with an extremist organization in order to hood-wink the Police and others and to transport her out of the country. If the statements of the detinue and the 7<sup>th</sup> respondent are to be believed, she had registered her name at the matrimonial site during April, 2016. The above fact substantiates the apprehension expressed by the petitioner in this case. [The same now stands established by the marriage that is said to have been conducted.] The marriage has been conducted, during the pendency of these proceedings, without even informing this court. The 7<sup>th</sup> respondent and her husband have therefore conducted themselves in a manner that is unacceptable on any count. Since this Court had reposed trust in her and had permitted Ms.Akhila to reside in her house, she had the duty at least to inform this court of the proposal that was admittedly being considered during the pendency of these proceedings. [She along with her husband assumed the role of the guardian of Ms.Akhila with scant regard for the rights of the petitioner and his wife, who are the parents and



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natural guardians of Ms.Akhila. They are alive. The petitioner is before this Court complaining that he apprehended the conduct of such a marriage. The conduct of the 7<sup>th</sup> respondent and her husband are therefore taken serious note of by this Court as an interference with the dispensation of justice by this Court. They have betrayed the trust reposed in them by this Court.

44. The 7<sup>th</sup> respondent and her husband had no authority to give Ms.Akhila in marriage to any one. ✓  
Therefore, all their acts purporting to have done so are invalid and of no consequence. Though it is repeatedly stated that Ms.Akhila has got converted to the Islam religion, there is no document evidencing such conversion on record. The name which she is alleged to have chosen, according to an affidavit executed by her before Adv.Devy A.C., Advocate and Notary on 10.9.2015 is 'Aasiya'. When she filed W.P.(C) No. 1965 of 2016, she described herself as Akhila Ashokan @ Adhiya. She has sworn to the pleadings in the said case and the affidavit in support of that writ

petition in the said name. In W.P.(Crl.) No. 25 of 2016 she has sworn to affidavits describing herself as Akhila Ashokan @ Adhiya. In this writ petition, in her affidavits, she describes herself as 'Akhila Ashokan @ Adhiya'. In Ext.R8(f), Ms. Akhila is described as 'Hadiya' and Sri.Ali. S, the husband of the 7<sup>th</sup> respondent, is shown as her guardian. The said marriage request is alleged to have been registered on 17.4.2016. According to the 7<sup>th</sup> respondent, Ms.Akhila met Sri.Shafin Jahan only on 30.11.2016. In the alleged marriage certificate issued by Thanveerul Islam Sangham dated 20.12.2016 produced by the Senior Government Pleader along with a memo dated 19.12.2016, her name is shown as Hadiya, D/o. Akhil Asokan. It is clear from the above that, even regarding the identity of Ms.Akhila, there is no certainty.

45. When it was submitted in Court that Ms.Akhila had got married, we wanted the Investigating Officer to probe the antecedents of Sri.Shafin Jahan. He has also filed an affidavit which is produced and marked as



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Ext.R8(j). Sri.Shafin Jahan has admitted the fact that he was an active member of a party, Social Democratic Party of India, SDPI. He is also one of the administrators of whatsapp group 'SDPI Kerlam' which is a whatsapp group formed for the functioning of the political party. He is an accused in Crime No.2100 of 2013 registered alleging offences under Sections 143, 147, 341, 323, 294(b) read with Section 149 of I.P.C. which is pending before the Judicial First Class Magistrate. Security proceedings had been initiated against him, but was later on dropped. The materials posted by him in his face book have been produced as Exts.R8(k) to R8 (t). The posts unmistakably show his radical inclination. ✓  
The learned Senior Government Pleader has placed before us the instructions received by him from the Investigating Officer dated 22.2.2017 wherein it is stated that, the details of the marriage had not been disclosed by him in his face book though he was very active on the internet. As per the report of the Investigating Officer dated 4.1.2017, Sri.Shafin Jahan was active in the SDPI even from his college days

where he was active in the Campus Front. 'SDPI Keralam' the watsup group of the party has a core committee which is called 'Thanal'. Mansy Buraqui who was arrested by the National Investigating Agency at Kanakamala on 2.10.2016 on the allegation that he had connection with the extremist organization, Islamic State (IS), was also a member of the SDPI Keralam and Thanal. Though it is stated that he had later been removed, the fact remains that Sri.Shafin Jahan has association with him. He is also accused in a criminal case. No prudent parent would decide to get his daughter married to a person accused in a criminal case. This is for the reason that, the possibility of such a person getting convicted and being sent to jail cannot be ruled out. It is clear that Sri.Shafin Jahan is only a stooge who has been assigned to play the role of going through a marriage ceremony. The alleged marriage is only a sham and is of no consequence. The same was intended only to force the hands of this court and to scuttle the proceedings in this case that were progressing. The same was intended only to



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take Ms.Akhila out of reach of this Court and her parents.

46. We further take note of the fact that, Sri.Shafin Jahan's mother is already in the Gulf. He was working in the Gulf and is desirous of going back. Therefore, left to him, he would have transported Ms.Akhila out of the country. In the present confusion regarding her name, it would have become impossible to even trace her out had she been taken out of India. There are reports of girls taken out of the country after such conversions, having become untraceable.

47. Adv. P.K.Ibrahim has placed reliance on the decisions reported in *Girish v. Radhamony K.* ((2009) 16 SCC 360), *Gian Devi v. The Superintendent, Nari Niketan, Delhi* ( (1976) 3 SCC 234), *Lata Singh v. State of U.P.* ((2006) 5 SCC 475), *S. Khushboo v. Kanniammal* ((2010) 5 SCC 600) and ((2011) 6 SCC 396) to contend that, it is the absolute right of a person who has attained majority to choose a religion of his/her own choice and that, the parents have no right or authority to question her choice. However, we

notice that, all the cases relied upon were concerned with girls who had fallen in love with persons belonging to other religions and who wanted to get converted and to live their marital life with the said persons. As we have already noticed above, such a situation does not exist in the present case. Here, the detainee went away from her parents stating that she wanted to become a Muslim alleging that she was attracted to the teachings of the said religion. The said story cannot be believed for the reasons already stated above. In the present state of affairs, it is absolutely unsafe to let Ms.Akhila free to do as she likes.

48. The resultant situation therefore is that, Ms.Akhila, though has completed her Homeopathic Medical Course, has not acquired her professional qualification since she has not completed her House Surgeoncy. She left her parents and her home allegedly for the purpose of embracing Islam as her faith. However, there is no evidence available of her conversion, in accordance with law. There is confusion regarding her identity. She has even sworn to



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affidavits before this Court, initially claiming that she was Adhiya and later on as Hadiya. She has also sworn to an affidavit before a Notary stating that her name was Aasiya. It is clear that she does not have a consistent stand even regarding her name. Though she initially stated that she wanted to learn more about Islam, all that she has done, even according to her, is to undergo a two month's course with the 6<sup>th</sup> respondent. She has thereafter returned to the 7<sup>th</sup> respondent though she was permitted by this Court to reside in the Hostel of the 6<sup>th</sup> respondent for the purpose of attending her course. She appeared before this Court in the present case, in the company of the 7<sup>th</sup> respondent. There is no explanation as to why she had returned to the 7<sup>th</sup> respondent, without going home. She has sworn to an affidavit in these proceedings, claiming that she wanted to pursue her studies and to complete her House Surgeoncy. When she is asked to appear in Court for the purpose of being sent to her College, she appears and takes a stand that she had got married. It is clear that she has no

consistent stand or a clear idea about her life or future. It is also clear that she is in a situation where she is acting on the dictates of some others who are bent upon taking her away from her parents. Their objectives in doing so are not clear. According to the petitioner, his daughter is likely to be transported out of India by people having links with extremist organizations. The apprehension expressed by him in his writ petition that his daughter was likely to be got married to a Muslim, stands substantiated by the events that have unfolded. Her marriage is alleged to have been performed by the 7<sup>th</sup> respondent and her husband acting as her guardians. They have no right to do so. The person who is alleged to have married her is an accused in a criminal case. He is also a person who has radical inclinations as evident from his Facebook posts. Ms. Akhila has had no contract with him in the past and the marriage has been brought about through a matrimonial site. Her name was registered at the site by the 7<sup>th</sup> respondent. The learned Senior Government Pleader has alleged that in



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another case, W.P.(Crl) No. 235 of 2016, which is pending, there are inputs suggestive of the fact that the 7<sup>th</sup> respondent had advised the detainee therein to get married to a Muslim to overreach court proceedings. Neither the alleged detainee nor the 7<sup>th</sup> respondent appear to be having any constraints on funds. All the above facts point to the existence of an organizational set up functioning behind the scenes. In the above factual background, we are not satisfied that it is safe to let Ms.Akhila free to decide what she wants in her life. She requires the care, protection and guidance of her parents.

49. Ms.Akhila is the only child of her parents. There are no other persons in this world, who would consider the welfare and wellbeing of their daughter to be of paramount importance than her parents. The nature provides numerous examples of even animals taking care of and protecting their progeny sacrificing their very lives for the purpose. The Homo sapien is no exception. The forces operating from behind the curtains have succeeded in

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creating a hostility in the mind of Ms.Akhila towards her parents. During our interactions, we have seen the anguish and sorrow of the father, who was pleading with his daughter to return home. The petitioner has in his reply affidavit dated 24.10.2016 (paragraph 7) stated that he has no objection in Ms.Akhila carrying on worship and following religious practices in accordance with her Islamic beliefs. He has also stated that he would afford necessary facilities for her to perform all the rituals of Islam in her house. Therefore, Ms.Akhila can have no complaint against her parents. She would be safe only with her parents taking into account the fact that she is a girl aged 24 years.

50. A girl aged 24 years is weak and vulnerable, capable of being exploited in many ways. This Court exercising parens patriae jurisdiction is concerned with the welfare of a girl of her age. The duty cast on this Court to ensure the safety of at least the girls who are brought before it can be discharged only by ensuring that Ms.Akhila is in safe hands. The 7<sup>th</sup> respondent has proved that she is



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unworthy of the trust reposed in her, by her conduct in weaning Ms.Akhila away from her parents and by having a sham of a marriage ceremony performed with a person like Sri.Shafin Jahan who is an accused in a criminal case, apart from being associated with persons having extremist links. Another Division Bench of this Court has in Lal Parameswar v. Ullas (supra) recognized parental authority over even a female who has attained majority. We are in respectful agreement with the said dictum. A Single Bench of this Court has in Shahan Sha A v. State of Kerala (supra) taken note of the functioning of radical organizations pursuing activities of converting young girls of Hindu religion to Islam on the pretext of love. The fact remains that such activities are going on around us in our society. Therefore, it is only appropriate that the petitioner and his wife, who are the parents, are given custody of Ms.Akhila. She shall be cared for, permitted to complete her House Surgeoncy Course and made professionally qualified so that she would be in a position to stand independently on her own two legs. Her

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marriage being the most important decision in her life, can also be taken only with the active involvement of her parents. The marriage which is alleged to have been performed is a sham and is of no consequence in the eye of law. The 7<sup>th</sup> respondent and her husband had no authority or competence to act as the guardian of Ms.Akhila and to give her in marriage. Therefore, the alleged marriage is null and void. It is declared to be so.

In the result,

i) This writ petition is allowed. The petitioner is granted custody of his daughter Ms.Akhila, who is presently residing at SNV Sadanam Hostel, Ernakulam pursuant to our direction. The 2<sup>nd</sup> respondent or a Police Officer in the rank of Sub Inspector as authorised by him, in the presence of a Woman Police Constable/Constables shall escort Ms.Akhila from the Hostel to the house of the petitioner. The 2<sup>nd</sup> respondent shall also provide protection to the petitioner and his wife and Ms.Akhila and shall maintain a surveillance over them to ensure their continued safety.



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ii) The marriage of Ms.Akhila alleged to have been conducted on 19.12.2016 by the Khazi of Puthoor Juma Masjid at Srambikcal House, Puthoor (house of the 7<sup>th</sup> respondent) is declared to be null and void.

iii) The 4<sup>th</sup> respondent shall take over the investigation of Crime No. 21 of 2016 of Perinthalmanna Police Station and shall have a comprehensive investigation conducted co-ordinating the investigation in Crime No.510 of 2016 of Cherpulassery Police Station which has been registered into the forcible conversion of Ms.Athira which is the subject matter of W.P.(CrI.) No. 235 of 2016 of this Court. The 4<sup>th</sup> respondent shall also investigate the activities of the organizations that are involved in this case of which reference has been made by us above. Such investigation shall be completed as expeditiously as possible and the persons who are found to be guilty shall be brought to the book.

iv) The 4<sup>th</sup> respondent shall conduct a full-fledged enquiry into the lapses on the part of the

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Investigating Officer in this case and shall, if necessary, pursue departmental proceedings against the Officer concerned.

The Registry shall transmit a copy of this judgment to the 4<sup>th</sup> respondent for necessary action.

Sd/-  
K. SURENDRA MOHAN  
JUDGE

Sd/-  
K. ABRAHAM MATHEW  
JUDGE

sb



WP(Crl.).No. 297 of 2016 (S)

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APPENDIX

PETITIONER(S) EXHIBITS

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EXHIBIT P1 : THE TRUE COPY OF THE STATEMENT FILED BY THE SENIOR GOVT.PLEADER OF THE STATE OF KERALA IN WPC 16249/2012 DATED 23.7.2012 BEFORE THIS HON'BLE COURT.

EXHIBIT P2 : THE TRUE COPY OF THE INTERIM ORDER DATED 19.1.2016 IN WP(CRL) 25/2016 OF THIS HON'BLE COURT.

EXHIBIT P3 : THE TRUE COPY OF THE JUDGMENT DATED 19.1.2016 IN WP (CRL) 25/2016 OF THIS HON'BLE COURT.

EXHIBIT P4 : THE TRUE COPY OF THE PETITION DATED 13.7.2016 SUBMITTED BEFORE THE RESPONDENTS TO 2 TO 4.

EXHIBIT P5 : THE TRUE COPY FO THE PETITION DATED 11.8.2016 SUBMITTED BEFORE THE 5TH RESPONDENT.

EXHIBIT P6 : THE TRUE COPY OF THE G.O.(MS) NO.75/2004/SC/STDD ISSUED BY THE GOVERNMENT OF KERALA DATED 30.10.2004.

EXT. P7 : A TRUE PHOTOCOPY OF NEWS ARTICLE PUBLISHED IN INDIA TODAY ONLINE EDITION DATED 17.8.2016.

EXT. P8 : A TRUE PHOTOCOPY OF THE PAGES OF THE WEBSITE OF THE 6TH RESPONDENT.

EXT. P9 : A CD CONTAINING THE TRUE CONVEWRSATION BETWEEN THE PETITIONER AND THE DETENU.

EXT. P10 : A CD CONTAINING THE NEWS BROADCASTED IN JANAM TV.

EXT. P11: A TRUE PHOTOCOPY OF THE PATIENT IDENTITY CARD OF BEENA SABU.

EXT. P12 : A TRUE PHOTOCOPY OF THE PATIENT IDENTITY CARD OF BINDU K. MANY.

EXT. P13 : A TRUE PHOTOCOPY OF THE FACE BOOK POST ABOUT THE CONCEPT OF HIS LIFE PARTNER DATED 20.9.2016.

EXT. P14 : A TRUE PHOTO COPY OF THE FACE POST TITLED നിങ്ങൾ

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തയ്യാറായിക്കോ ഒരു വെടിയുണ്ട കാത്തിരിക്കുന്നുണ്ട്?

DATED 1.11.2016.

EXT. P15 : A TRUE PHOTOCOPY OF THE FACEBOOK POST OF SHAFIN JAHAN ADMITTING HIS JOURNED TO YEMEN.

EXT. P16 : A TRUE PHOTOCOPY OF THE FACEBOOK POST TITLED ഒരു മൺ. വരുന്നുണ്ടോ ഭീകരാക്രമണത്തിന്റെ .

EXT. P17 : A TRUE PHOTOCOPY OF THE FACEBOOK POST TITLED "WITH THE DISTANT HOPE THAT I WOULD RETURN SOME DAY AS i BEGIN MY JOURNEY" DATD 27.12.2016.

EXT. P18 : A TRUE PHOTOCOPY OF THE POST GREETING THE 7TH RESPONDENT ON HER ELEVATION OF AS THE MEMBER OF THE MUSLIM PERSONAL LAW BOARD DATED 30.12.2016.

EXT. P19 : A TRUE PHOTOCOPY OF THE FACEBOOK POST TITLED "CHERUKKAN USHARATTA, U.A.P.A OKKE UNDU? DATED 22.12.2016.

EXT. P20 : A TRUE PHOTOCOPY OF THE FACE BOOK POST DATED 1.1.2017.

EXT. P21 : A TRUE PHOTOCOPY OF THE SAID PHOTO AND CHATting.

RESPONDENT(S)' EXHIBITS

EXT. R7(a) : TRUE COPY OF THE CERTIFICATE ISSUED BY INTERNATIONAL TRANSACTIONAL ANALYSIS ASSOCIATION DATED 13TH AND 14TH DECEMBER, 2008.

EXT. R7(b) : TRUE COPY OF THE CERTIFICATE ISSUED BY INSTITUTE FOR CONSELING AND TRANSACTIONAL ANALYSIS DATED 3.4.20009.

EXT. R7(c) : TRUE COPY OF THE IDENTITY CARD OF KELSA DATED 29.3.2011.

EXT. R7(d) : TRUE COPY OF THE CERTIFICATE OF APPRECIATION OF THIS INSTITUTE OF OBJECTIVE STUDIES.

EXT. R7(e) : TRUE COPY OF THE AFFIDAVIT AND THE PETITION DATED 19.1.2016 IN LA NO...../2016 IN W.P.(CRL) 25/2016.

EXT. R7(f) : TRUE COPY OF THE MEMO DATED 25.1.2016 AD THE TWO DOCUMENTS NAMELY, COPY OF THE ADMISSION REGISTER AND CERTIFICATE OF THE 6TH RESPONDENT.

EXT. R7(g) : TRUE COPY OF THE CERTIFICATE ISSUED BY THARBYATHUL ISLAM SANGAM DATED 25.7.2016.



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EXT. R7(H) : TRUE COPY OF THE REQUEST MADE BY THE ALLEGED DETENU TO THE PRINCIPAL DATED 22.3.2016.

EXT. R7(i) : TRUE COPY OF THE RECEIPT DATED 17.8.2016 ISSUED BY DAYA WORKING WOMEN'S HOSTEL, KONDOTY FOR RECEIVING ADVANCE AMOUNT OF RS.2000-.

EXT. R7 (j) : TRUE COPY OF THE PETITION SUBMITTED DATED 21.8.2016 SUBMITTED ON 22.8.2016.

EXT. R7(k) : TRUE COPY OF THE RATION CARD ISSUED IN 2012.

EXT. R7(l) : TRUE COPY OF THE LETTER DTED 19.10.2016.

EXT. R7(m) : TRUE COPY OF THE PRINT OUT OF THE WEBSITE INFORMATION AFTER REGISTERING THE REQUEST FOR MARRIAGE IN WEB MATRIMINY ON 17.4.2016.

EXT. R7(n) : TRUE COPY OF THE PRINT OUT OF THE VARIOUS PROPOSALS CAME IN RESPONSE TO EXT. R7(m).

EXT. R7(o) : TRUE COPIES OF THE COMMUNICATION TAKEN PLACE IN WHATS APP ON 8.8.2016.

EXT. R7(p) : TRUE COPY OF THE REQUEST DATED 4.12.2016 MADE TO THE HUSBAND OF THIS DEPONENT.

EXT. R7(q) : TRUE COPY OF THE LETTER ADDRESSED TO JANAB HYDER ALI SHIHAB THANGAL DATED 13.12.2016ACKNOWLEDGED ON 14.12.2016.

//true copy//

P.S. To Judge

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IN THE SUPREME COURT OF INDIA  
[ORDER XXII RULE 2(1) (A)]

CRIMINAL APPELLATE JURISDICTION

A petition under Article 136 of the Constitution of  
India

SPECIAL LEAVE PETITION (C) NO. OF 2017

(Under Article 136 of the Constitution of India arising  
out of the final judgment and order dated 24.5.2017  
passed by the High Court of Kerala in WP (Crl) No.  
297 of 2016)

**POSITION OF PARTIES**

In the In this  
High Court Court

Shafin Jahan  
S/o Shajahan, Aged 26,  
Chirayil Puthenveedu,  
Chathinamkulam,  
Chandanathoppu, Kollam  
District, Kerala,

Not a Party      Petitioner

**Versus**

1. Asokan K.M.,  
S/o. Mani, Aged 56,  
Karattu House, (Devi Kripa),  
T.V. Puram Post, Vaikom,  
Kottayam District,  
Kerala.

Petitioner

Respondent  
No.1

2. The Superintendent of Police,  
Malappuram Dist. Pin- 679001,  
Kerala.

Respondent  
No. 1      Respondent  
No. 2



3. The Superintendent of Police,  
Kottayam Dist., Pin- 689001,  
Kerala.

Respondent      Respondent  
No. 2      No.3

4. Inspector general of Police,  
Ernakulam Range, Kochi,  
Pin- 682031, Kerala.

Respondent      Respondent  
No. 3      No.4

5. The Director General of Police,  
Police Headquarters,  
Trivandrum- 695001,  
Kerala.

Respondent      Respondent  
No. 4      No.5

6. National investigation Agency, represented by  
the superintendent of police (NIA), No.  
28/443, 4th Corss, Giri Nagar, Kadavnathra,  
Kochi, Pin- 682016, Kerala.

Respondent      Respondent  
No. 6      No.6

7. Markazul Hidaya,  
Sathyasarani Educational & Charitable Trust,  
Kāruvambam PO, Manjeri, Malappuram  
District, Pin- 676123,  
Represented by its Manager,  
Kerala.

Respondent      Respondent  
No. 6      No.7

8. Sainaba A.S., Aged about 45,  
Srambikcal House, Puthoor PO,  
Kottackal, Malappuram District- 679124,  
Kerala.

Respondent      Respondent  
No. 7      No.8

To

The Hon'ble Chief Justice of India  
And His companion Justices of the

The Humble petition of the petitioner  
above named

MOST RESPECTFULLY SHEWETH:-

1. That the present special leave petition filed under Article 136 of the Constitution is to challenge the Judgment dated 24.5.2017 Passed by the High Court of Kerala at Ernakulam in WP (Crl) No. 297 of 2016 whereby the High Court has allowed the writ of habeas corpus filed by the Respondent No.1 herein, and against the will of the Detenue, has placed the same under house arrest. The High Court also declared the marriage of the Petitioner to the Detenue null and void on the finding that the marriage is a sham and not valid in the eye of the law. The High Court has allowed the habeas corpus petition filed by the Respondents.

2. **QUESTIONS OF LAW**

The following substantial questions of law arise in this Petition for consideration of this High Court:

- a) Whether the High Court was justified in annulling the marriage of the Petitioner to the Detenue without going into the validity of the same?
- b) In view of the judgment of a Constitutional bench of This Hon'ble Court in **Ghulam Sarwar**



**Vs. Union of India, (1967) 2 SCR 271,**

whether the High Court is legally correct in entertaining and allowing a 2nd round of Habeas Corpus Writ Petition under Article 226 of the Constitution of India in a case where earlier another Habeas Corpus Writ Petition under Article 226 had been filed by the same writ petitioner in respect of the same alleged detainee and the same had already been considered and disposed of on merits by another Division Bench of the same High Court declaring that the alleged detainee is not under anyone's illegal custody and that she is set at liberty?

- c) When the alleged detainee, who is a 24 years old medical graduate, who is sane, who repeatedly appears before the High Court and submits in person, on affidavit and also through counsel that she is not under anybody's illegal detention, whether the High Court can still allow the Habeas Corpus writ petition and put her in confinement for months and thereafter give her in custody to someone else against her will?
- d) In a case where the couple, being the Detenue and the Petitioner herein, are not parties, whether the High Court, in its Habeas Corpus

jurisdiction can declare the couple's marriage as null and void without issuing notice to them, the persons who are going to be affected by its order, and not giving them any opportunity of being heard?

- e) While sitting over its Habeas Corpus jurisdiction under Article 226 of the Constitution of India, at the instance of neither the wife, nor the husband, whether the High Court can declare a marriage between two educated adults and mentally fit persons of India, as null and void, against their will?
- f) In case where a person concerned is not a minor nor insane, not a person who is unable to conduct her case on account of poverty, whether the High Court can put the person in somebody's custody against her will by saying that the High Court is exercising its *parens patriae* jurisdiction?
- g) In a case where the Detenue was already set at liberty in the 1st round of Habeas Corpus litigation and in the absence of any interim order or injunction whatsoever of any court of law against contracting marriage by the Detenue, whether the marriage contracted between the



Detenue and the Petitioner, who are both educated adults and persons of sane mind, can be nullified on the ground that Court's permission to marry was not taken?

- h) Whether High Court was justified in branding the Petitioner as a radical based on merely his facebook posts and that he had been an accused in a criminal case?
- i) Whether the High Court was justified in granting custody of the Detenue to the Respondent No.1 against her will. Even when the Detenue has long been a major and is of clear and sound mind. Even when the Detenue had made it amply clear all throughout that she did not wish to reside with Respondent No.1?
- j) Whether the High Court was justified in concluding that the Detenue was unfit to act for herself based on the fact that she had married the Petitioner? Is marriage of a person a reasonable ground to declare them unfit to act for themselves favourably? Should the High Court decide whom a person should and should not marry?

- k) Whether the impugned order is in clear violation of Article 25 of the Constitution and ought to be struck down?

3. **DECLARATION IN TERMS OF RULE 2(1):**

The petitioner states that no other petition seeking leave to appeal has been filed by him against the impugned judgment and order.

4. **DECLARATION IN TERMS OF RULE 2(4):**

The Annexures P-1 produced along with the S.L.P. are true copies of the pleadings/ documents which formed part of the records of the case in the court below against whose order the leave to appeal is sought for in this petition.

5. **GROUND:**

- A. That the impugned judgment is a clear violation of the Detenue's constitutional rights under Article 14, Article 21 and Article 25 of the Constitution.
- B. That the Respondent No.1 herein had earlier filed a writ of habeas corpus against the Detenue being WP (Cri) No. 25 of 2016 before the High Court of Kerala at Ernakulam on the same grounds and that the same was disposed of through an order dated 25.1.2016 wherein it was held that the



Detenue is not under illegal confinement and that she is residing at Respondent No. 7 institution, herein on her own free will. That the Petitioner could not have filed another writ petition of habeas corpus on the same grounds against the same person as it violates the very principle of Res Judicata.

- C. That the High Court had in the earlier writ petition filed by the Respondent No.1 herein, on the same grounds, against the Detenue, being WP (Crl) No. 25 of 2016 issued its final order and judgment dated 25.1.2016 wherein it had clearly held that the Detenue had not been coerced in any way by anybody into accepting the religion of Islam and that she, being a major, was free to make her own decisions about her life and future and which religion to practice. That the Ld Division Bench ought to have appreciated the judgment passed by the High Court in the earlier writ petition and not entertained the WP (Crl) No 297 of 2016 when the Respondent no.1 again came before the High Court with a case that had already been adjudicated upon fairly by the same court.

D. That the impugned judgment runs counter to the well settled judgment of a constitutional bench of this Hon'ble Court in **Ghulam Sarwar Vs. Union of India, (1967) 2 SCR 271**, wherein this Hon'ble Court was pleased to hold the following:

E. "...But subsequently the English courts held that a person detained cannot file successive petitions for a writ of habeas corpus before different courts of the same Division or before different Divisions of the same High Court on the ground that the Divisional Court speaks for the entire Division and that each Division for the entire Court, and one Division cannot set aside the order of another Division of the same Court [See *Re Hastings (1) (No. 2)* and *Re Hastings (2) (No. 3)*]. The Administration of Justice Act, 1960 has placed this view on a statutory basis, for under the said Act no second application can be brought in the same court except on fresh evidence...

F. ...But coming to India, so far as the High Courts are concerned, the same principle accepted by the English Courts will equally apply, as the High Court functions in Divisions not in benches.



When it functions as a Division, it speaks for the entire court, and, therefore, it cannot set aside the order made in a writ of habeas corpus earlier by another Division Bench. But this principle will not apply to different courts. "

G. In the present case, the same writ petitioner, Respondent No.1 herein had filed another Habeas Corpus writ petition under Article 226 of Constitution in respect of the same Detenue and another Division Bench of the High Court had been pleased to dispose of the said earlier writ petition by declaring that the Detenue is not under anybody's illegal custody and that she is set at liberty. Therefore, the High Court wholly erred in entertaining and allowing a 2nd round of Habeas Corpus Writ Petition by the same writ petitioner in respect of the same Detenue.

H. That in the case of **Lata Singh Vs State of Uttar Pradesh , (2006) 5 SCC 475** this Hon'ble Court in similar circumstances, wherein a girl married outside her caste, observed that :

"This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-

religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter- religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law."

- I. That the impugned order is clearly against the precedent as laid down by this Hon'ble Court in **Lata Singh Vs State of Uttar Pradesh , (2006) 5 SCC 475** and ought to be struck down.
- J. The High Court ought to have found that in a case where the husband and the wife are Muslims, their marriage cannot be nullified on



the ground that the consent of bride's father, who is in fact against the marriage, was not obtained. This is unconstitutional, illogical and irrational as well because if it were to be the law, then no woman can contract a marriage of her choice unless her father agrees to it. This is against Muslim personal law as well, which has clearly been enunciated in several well settled judgments, such as **Abubacker and others Vs. Marakkar, 1970 KHC 24; Adam Vs. Mammad, 1990 KHC 152 and Tahra Begum Vs. State of Delhi & Others, 2012 KHC 2557.**

- K. That the High Court while annulling the marriage between the Detenue and the Petitioner, indicated that the fact of marriage is "only to scuttle the jurisdiction of this court", and it is a camouflage to transport the Detenue out of the country by way of illegal and immoral trafficking. By stating this, the High Court completely stripped the Detenue, and possibly every Indian woman, of independence and agency to make her own decisions as an adult.
- L. That the High Court erred grievously when it assumed that women don't have the independence of identity, agency and autonomy.

- M. That the impugned order is an insult to the independence of women of India as it completely takes away their right to think for themselves and brands them as persons who are weak and unable to think and make decisions for themselves. That the same is against their fundamental rights and should be struck down.
- N. That the High Court, through the impugned order, completely stripped the Detenue, and possibly every Indian woman, of independence and agency to make her own decisions as an adult.
- O. That the impugned order carries unnecessary religious overtones. That while the High Court explicitly states that it would not want to determine what faith the Detenue should follow, but it does pin down that her identity — whether religious or otherwise — is strictly associated with her parents. Through the judgment, the High Court points out that the Detenue is the only daughter of "Hindu parents" and that she was brought up as "a Hindu in accordance with the faith of her parents" and that "she has been indoctrinated and influenced by persons whose identities have not been ascertained". That in a habeas corpus petition where the court is



concerned with the safety of weak and vulnerable women such as the Detenue, the issue of religion should not find a place.

P. The High Court gravely erred in declaring the marriage of the Petitioner and the Detenue to be null and void without any legal basis. That the Petitioner and the Detenue had performed all the rights under the Muslim Laws and the High Court ought not to have declared it null and void without any legal basis whatsoever.

Q. That the High Court erred in equating the marriage between the Petitioner and the Detenue to be a case of "Love Jihad". That the facts of this case are completely different from that of a case of so called "Love Jihad". That in this case, the Detenue, being the girl had converted on her own free will to the faith of Islam and not for the reason of marrying the Petitioner. It was afterwards that she had met with the Petitioner on an online marriage website that they both decided to get married.

R. That the High Court erred in ignoring the fact that the Detenue had herself enlisted onto the Matrimonial Website on 17.4.2016 and had herself received over 50 responses over a period

of time, among which was a response from the Petitioner herein. The Petitioner first contacted the Detenue on 8.8.2016. That the demand of the Detenue was that since she was a convert she wanted the family of the groom to accept her. This was acceptable to the Petitioner. Thereafter, the Petitioner and his sister met with the Detenue on 30.11.2016 and therein decided to conduct the marriage on 19.12.2016. That the marriage between the Petitioner and the Detenue was done in a normal course of events and that no prior motive or malice was involved as was wrongly held by the High Court.

- S. That it was incorrectly held by the High Court that the Petitioner does not have a job. On the contrary the Petitioner has a job with a company named, Al Masand International in Muscat. Also, the offer letter of the same dated 2.1.2017 was produced before the High Court by the Detenue. That the Petitioner had been residing and working at Muscat for the past 2 years and that his family has been based in Muscat with him as well. That the High Court erred in not taking into account these facts which clearly show that the Petitioner



is a man with a job who can legitimately provide for the Detenue and not merely a pushover.

T. That the High Court erred in concluding that the Detenue had been forced to accept Islam at the behest of Respondent No. 8 without any evidence to support the same.

U. That the High Court ignored the clear evidence provided to it by the Detenue as regards the details of her marriage to the Petitioner. Instead the High Court assumed that the whole marriage was a ploy to transport the Detenue out of the country to possibly join extremist groups. That the High Court ignored the evidence of the marriage of the Petitioner and assumed conspiracy theories based on no clear or direct evidence is a blatant error in its judgment.

V. That the High Court erred in blindly accepting the story concocted by the Respondent No.1 which is clear case of islamophobia that the Detenue had been forced to convert to Islam and that she shall be taken out of the country to join Islamic State. The fact that the same has been accepted by the High Court without any evidence whatsoever to support the same shows that the High Court has erroneously given in to the hysteria created by

Respondent No.1 against Islam and Respondent No.8 and the Petitioner herein.

- W. That the High Court erred in blindly accepting the Petitioner as radical based on a few post of facebook and his connection with the Social Democratic Party of India (SDPI), which is a legitimate political party of India. It is extremely unfair that a person can be branded as an anti-national based on a few facebook posts and belonging to a legitimate political party. That the High Court failed to see the real intent of the Respondent State in such a case is a clear error in its judgment.
- X. That the High Court erroneously held that it is unsafe to let the Detenue do what she likes. That the Detenue is a major of a sound mind. There is no evidence to show that she suffering any mental illness or that she has been coerced in any way by anyone to convert to Islam. Neither is there any evidence to show that she has been coerced to marry the Petitioner.
- Y. That the High Court erred in granting custody of the Detenue to Respondent No.1 against her will. That the same has cut off any link of the Detenue from the outside world and detained her against



her will. That the same has not permitted her to approach this Hon'ble Court even to appeal against the impugned order of the High Court. That the same is against the Fundamental Rights of the Detenue.

Z. That the High Court erred in not allowing the Detenue to marry the Petitioner and to practice Islam in her own way. That the same is in violation of Article 25 of the Constitution.

AA. That the High Court erred in giving in to the wild allegations made by Respondent NO.1 against the Respondent No.8 and the Petitioner which have no basis whatsoever and are an attempt to malign the Petitioner and Respondent No.8 by the Respondent NO.1.

BB. That the High Court erred in assuming that the Detenue is not an able adult and that she is the chattel of her parents, and whose identity is immutably linked to that of her parents. The High Court has therefore erred in invoking its *parens patriae* jurisdiction on its own accord, claiming that the Detenue is weak, vulnerable and capable of being exploited.

CC. That the Ld Division Bench has erroneously treated the Detenue as a child and with complete

sense of enforced patronisation. The The Detenue is not a child, and yet she is treated like one by the judges in the order.

DD. That the High Court has erroneously invoked Detenue's father's "anguish and sorrow" as legitimate reasons for nullifying Detenue's marriage and the acceptance of the habeas corpus petition.

6. **GROUND'S FOR INTERIM RELIEF:**

- A. It is submitted that the effect of the impugned order is that the Detenue has been placed on a house arrest by Respondent No.1 and without any contact with the outside world, the Detenue is unable to approach this Hon'ble Court for relief. The Detenue was also married to the Petitioner which has been annulled through the Impugned Order. That the same has caused immense hardship and mental trauma to the Petitioner and the Detenue and has so far kept the Detenue from approaching this Hon'ble Court to seek any further relief.
- B. In view of the same the decision of the High Court is resulting in immense hardship and



trauma to the Petitioner and preventing the Detenue from seeking justice before this Hon'ble Court.

- C. Therefore, it would be in the interest of justice to stay the judgment of the High Court during the pendency of the proceedings before this Hon'ble Court and permit the Petitioner and the Detenue to live together as husband and wife.

**7. MAIN PRAYER**

In view of the above it is most respectfully prayed that this Hon'ble Court may be pleased to:-

- a) Grant Special Leave to Appeal against the final Judgment and order dated 24.5.2017 in WP (Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulum.
- b) Pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**8. PRAYER FOR INTERIM RELIEF:**

In view of the above it is most respectfully prayed that this Hon'ble Court may be pleased to:-

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- a) Grant an order staying the judgment and order dated 24.5.2017 in WP (Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulum.
- b) Pass any further orders as this Hon'ble Court deems fit;

AND FOR THIS ACT OF KINDNESS, THE PETITIONER  
AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN BY

FILED BY

HARIS BEERAN

Pallavi Pratap

Advocate

Advocate for the Petitioner

**NEW DELHI**

Drawn On ::3.7.2017

Filed On ::4.7.2017



122

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
Special Leave Petition (Criminal) No. \_\_\_\_ of 2017

IN THE MATTER OF:-

Shafin Jahan

... Petitioner

Versus

Asokan K.M. &Ors.

... Respondents

CERTIFICATE

Certified that the Special Leave Petition is confined only to the pleadings before the Courts below whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the documents/ annexures P-1 to P-49 attached to the Special Leave Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. The certificate is given by the Advocate as authorized by the Petitioner whose affidavit is filed in support of Special Leave Petition.

(PALLAVI PRATAP)  
Advocate for Petitioner

Date:-4.7.2017

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Special Leave Petition (c) No      of 2017

**IN THE MATTER OF:-**

ShafinJahan	Versus	... Petitioner
Asokan K.M. &Ors.		... Respondents

**AFFIDAVIT**

I, Shafin Jahan, aged 26 years, son of Shajahan, residing at ChirayilPuthenveedu, Chathinamkulam, Chandanathoppu, Kollam District, Kerala,do hereby solemnly affirm and state as follows:

1. That I am the Petitioner in the above special leave petition and I am well conversant with the facts and circumstances of the case and as such competent to swear upon this affidavit.
2. I state that the contents of List of Dates at Pages 8 to 14 and Special Leave Petition as contained in Paras 1 to 8 at SLP at pages 101 to 124 and applications are true to my knowledge and information derived from the records of the case and those of submissions of law made in question of law, grounds, prayer, applications and certificate



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are true as per the legal advice received and believed by me.

3. I say that the annexure P-1 to P-<sup>494</sup> at pages 125 to<sup>494</sup> annexed along with the S.L.P. are true copies of its respective originals.



DEPONENT

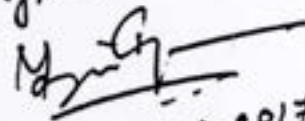
### Verification

Verified at Ernakulam on this the 1<sup>st</sup> day of July 2017 that the contents of paragraphs 1 to 3 of the above affidavit are true and correct to my knowledge and belief, that no part of it is false and nothing material has been concealed there from



DEPONENT

Verified



1.7.2017  
12/11/66/99

**MANJU RAJAN, BA; LLB**  
ADVOCATE  
Chamber No. 833  
High Court Chamber Complex  
Near High Court  
Ernakulam - 682 031

AFFIDAVIT

Anneve P,  
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I, Akhila Asokan, D/o Asokan, aged 24 years residing at Karat House, Vaikom amsom, Thirumani Venkitapuram desom Venkitapuram P.O, Vaikom Taluk, Kottayam District do hereby solemnly affirm and state as follows:-

I completed BHMS Course from Shivaraj Homeopathic Medical College in Salem District and I am now doing house surgency. I belong to Ezhava caste of Hindu religion. I am desirous of being a Muslim after I read and heard about Islamic religion.

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Ext R7 (e) /11

There is no persuasion and I am not offered any promises for joining the Islam religion. I embrace Islamic religion out of my own free will. There is no vested interest like marriage or property behind my decision to convert. My desire is to embrace Islam and die as a Muslim. I am not afflicted by any contagious disease. I am not involved in any criminal offence. I hereby truly state that I embrace Islam out of my free will and not out of coercion or persuasion from any one.



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Those stated above are true to the best of my  
knowledge and belief.

Dated 4<sup>th</sup> day of January 2016.

Akhila Asokan

S/d

Sreejith V.k

Advocate & Notary

PERINTHALMANNA- 679 322

MALAPPURAM DIST

T/c

Annexure - 12

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To the Father and mother. I know that you brought me up and gave education with great expectation. I embraced a belief which you could not accept. It is for nothing else. It out of my obligation to the One God who created and cherished me, my parents and whole Mankind. We are committed to that power. All creatures are equal before the Creator. To follow the creatures by not following the Creator is disobedience. Islam teaches me it. ~~If~~ it is understood, father may also be prepared to worship that Creator. I know that I am sacrificing all the privileges as a single daughter only for the sake of preserving this belief. There is to be seen only a dedication of a slave towards his Allah. Father and Mother mean to me everything. My love for Allah is beyond that. It is no true belief if a believer of God places someone else above the God. Unto mother, mother's belief. Father may be at peace thanks to the lack of belief. I am a Muslim for the last three years. My roommates know everything. Father and mother have knowledge of it. I was blamed for my interest in Islam. Father, if you wish me peace of mind and blessings, let



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me live according to my belief. Don't disturb me and my friends. If I could consolidate my life according to my belief, definitely, I would come and see if you accept me. It is not for any property or material benefit but out of my obligation towards you after my duty to the Creator. I respect you. I pray the Creator that he may shower his blessings upon you as well. Do not hate Islam. Read with open mind. This is the way of peace and tranquility. The real face of Islam is not what we see in news channels and media. Such perversions are there in every religion. By wishing you peace, I humbly request father to withdraw the complaint to save me and my friends from being haunted by Police.

Date 11/1/2016

Adhya (Akhila Asokan)

T/C

Annexure-13

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From

Aadhiya (Akhila Asokan)

Devikripa, T.V Puram (P.O)

Vaikom, Kottayam.

To:

The DGP ( Law and Order)

Police Head Quarters

Trivandrum

Sir,

My father Asokan is a Hindu. But he does not believe in God. My mother Ponnammamma is a Hindu and a believer. I am the only daughter of my parents. My father is a retired military man. Now, he is working at Ernakulam. I completed BHMS and I am now 24 year old.

I lived at Salem for my studies. I completed BHMS Course

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Ext R7(e) /15

I am now Muslim. The Islam had influenced me and I  
embraced Islam after I understood the religion well. All  
my roommates know that I believe in Islam. It has been 3



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years since I became a Muslim. My father and mother had seen me offering namaz (Prayer). Father had quarreled me about it and told me not to do it again.

Then I realized that I could not practice my belief if I stayed with my father and mother.

I would like to live and practice as Muslim. I came to Malappuram from Salem on 06.01.16 along with my friend Jaseena. But the father of Jaseena told me that he cannot protect me. He informed my father to avoid the problem.

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Ext R7 (e) /16

As I was sure that father will not let me live as Muslim, I boarded a bus on 07.01.2016 to Salem.

Now I am staying with another friend for the sake of my safety.

Sir,

I am a Muslim and my parents cannot interfere with my belief. I cannot stay with my father and mother safely. I had experienced it. My parents is likely to lodge complaint to the police and my friends are likely to be harassed. None of my friends had helped me. They did

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not provide me shelter so I was in trouble and now I found a safe shelter.

I am writing this letter because police need not harass my friends.

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Ext R.7 (e)/14

I will inform my parents. I shall also inform Vaikom S.I. I request you not to harass me and my friends in the name of my conversion to Islam.

Please do something to protect me and my friends.

I had written a letter to my parents informing them to let me live according to my belief. I enclose a copy of that letter herewith.

Aadhiya ( Akhila Asokan)

S/d

Copy to :

1. DGP
2. Circle Inspector of Police
3. Sub Inspector of Police.

This is the true copy of the document marked as Annexure A4

Date 11/1/16

Advocate

T/C



IN THE HIGH COURT OF KERALA

132

W. P. (Crl) No. 25 Of 2016

PETOTOPER

PETITIONER:

ASOKAN.K.M  
AGED 56 YEARS,  
S/O.MANI, KARATTU HOUSE, (DEVI KRIPA)  
T.V.PURAM P.O., VAIKOM,  
KOTTAYAM DISTRICT.  
BY ADV. SRI.C.K.MOHANAN

RESPONDENT:

1. THE STATE OF KERALA REPRESENTED  
BY ITS PRINCIPAL SECRETARY  
DEPARTMENT OF HOME AFFAIRS,  
GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM - 695 001.
2. THE SUPERINTENDENT OF POLICE  
MALAPPURAM - 679 001.
3. THE DEPUTY SUPERINTENDENT OF  
POLICE PERINTHALMANNA - 679 322.
4. ABOOBACKER PERAYIL HOUSE,  
CHIRAKKAPARAMBU, ANGADIPURAM P.O.  
PERINTHALMANNA, MALAPPURAM  
DISTRICT, PIN - 679 321.
5. THE CIRCLE INSPECTOR OF POLICE  
PERINTHALMANNA - 679 321.
6. THE SUB INSPECTOR OF POLICE  
PERINTHALMANNA - 679 321.
7. SMT. JASEENA D/O.ABOOBACKER,  
PERAYIL HOUSE, CHIRAKKAPARAMBU

ANGADIPURAM P.O., PERINTHALMANNA,  
MALAPPURAM DISTRICT, PIN - 679 321.

8. SMT. FASEENA D/O.ABOOBACKER,  
PERAYIL HOUSE, CHIRAKKAPARAMBU  
ANGADIPURAM P.O., PERINTHALMANNA,  
MALAPPURAM DISTRICT, PIN - 679 321.

MEMORANDUM OF WRIT PETITION (CRIMINAL)  
FILED UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA

- I. All the notices and processes to the  
Petitioners may be served on his counsel,  
A.Jayasankar, C.V.Manuvilsan & Manu  
Govind, M/s. JAYASANKAR, MANU &  
MANU, Advocates & Associates, Sree  
Padmam, Ponothe Road, Kaloore, Kochi-17.
- II. All the notices and processes on the  
respondents may be served on the above  
address or on its counsel in the cause.

III. STATEMENT OF FACTS

1. The petitioner is the father of detenuer, M/s.  
Akhila Asokan, aged 23 years. She was  
studying for B.H.M.S course in Shivraj  
College, Salem, which is affiliated to Dr



M.G.R. University, Tamil Nadu. The course includes four and half degree course and one year compulsory internship. She joined the course in the year 2010 and completed the course in the year 2015. Since she had failed in one of the subjects, she made to clear the same two months before. During the entire period, she was staying in a rented house near to the college, together with five other students. Among them, two inmates were sisters, viz. Jassena and Faseena, with whom she did have more affection and intimacy. Out of them, Ms. Jaseena was studying with the detainee and Ms. Faseena was studying in Bachelor Degree of Siddha Medicine and Surgery. The detainee used to tell about these two friends to her mother and other family members of the petitioner and all of them were well aware of her intimacy and affection with these two inmates.

2. It is respectfully submitted that, at the time of vacation and such other holidays, the

detenue used to seek permission from her parents to go to the house of the said two inmates, viz. Respondents No.7 and 8, who are the daughters of the 4<sup>th</sup> Respondent. In one occasion, these children came to the house of the petitioner also. Nobody found anything extra ordinary in their co-relationship and nobody tried to make any restrictions to their co-relationship. In this context, it is pertinent to note that in one occasion, the detenue had telephonically called the petitioner and informed that the 4<sup>th</sup> Respondent had been implicated in a criminal case and requested the petitioner to provide him some help as much as he can. On enquiry the petitioner came to know that it was a case registered by the police in connection with possession and handling of fabricated currency Notes and it is not possible for to explain the role of 4<sup>th</sup> Respondent in the said case in a casual manner. The petitioner remembers that on that occasion the detenue told that the 4<sup>th</sup>



Respondent is innocent and he was falsely implicated by the Police, due to some mistake of facts.

3. It is respectfully submitted that, after this incident, the petitioner had cautioned his wife, as not to permit the detainee to go to the house of the Respondent and subsequently he got the information from his wife that she is not going to their home on these days.
4. It is respectfully submitted that, recently the father of the petitioner has been expired on the 6<sup>th</sup> day of December, 2015. Pursuant to the information of the same, the detainee came to the house of the petitioner and stayed there for a period of nearly one month. During this time, it was noticed by many of the relatives that there are some changes in the behavior of the detainee. She became very reserved and introvert. It was specifically noticed by some of the relatives that she was too reluctant to participate in the religious rituals,

which were performed in the aftermath of the grandfather's funeral. This was so noticed, because on earlier occasions, it was she, who was very much involved in discharging the religious rituals and such other religious dogmas.

5. It is respectfully submitted that, after one month, she insisted the petitioner and his wife as she has to go to the college at Salem to join for the compulsory internship for one year. By this time the above mentioned two inmates namely; Faseena and Jaseena, also came to the petitioner's home and all the three had gone to Salem. It was on 02.01.2016. Thereafter she was regularly in contact with the petitioner and his wife, till 05.01.2016. On the 6<sup>th</sup> day of January, 2016, at evening, the petitioner had received a telephone call from the father of Ms. Archana, who is another inmate of the detinue. The information was that the petitioner's daughter had gone to the college on that day by wearing a 'Parda' and



he had got reliable information that she has been inspired by someone for a religious conversion, to Islam. Knowing this, the petitioner had a chest pain and he had fallen down. Pursuant to this this, his wife, the mother of the detenue, made a call to the detenue and told her that her father is suffering from acute chest pain and he wishes to meet her immediately. Upon hearing this, the detenue had got ready to come to her home to meet the petitioner. At this time, the seventh respondent, Jaseena, told her that she would also come along with the detenue. Though all other inmates told Jaseena not to go in such a situation, she took an adamant stand that she would also accompany the detenue. Accordingly they left Salem at about 8 pm and made a call to the petitioner regarding their departure. But from that moment onwards there was no news about her. On enquiry it is revealed through the above mentioned Rajan that Jaseena is in her home. Then,

the petitioner and his family had gone to Perinthalmanna, without any delay, but on the way, the said Rajan again called the petitioner and to tell that the 4<sup>th</sup> Respondent called him and told that he has started from his home with the detinue and they shall reach to the house of Rajan very soon. Thus, Mr. Rajan told the petitioner and his family as not to go to the house of the 4<sup>th</sup> respondent and they can collect their daughter from his house. Accordingly, the petitioner and his family reached the house of the said Rajan and waited for the 4<sup>th</sup> Respondent and his daughter. At this time, the said Rajan has got a telephone call from the 4<sup>th</sup> Respondent, by which he told Rajan that while they were coming to Rajan's house, the detinue had escaped from their vehicle and had ran away to somewhere. He added that though they searched everywhere, they could not find out her yet.

6. It is respectfully submitted that, soon after this incident, the petitioner and his family,



together with the family of Rajan, had gone to the house of the 4<sup>th</sup> Respondent. There, they had seen the children of 4<sup>th</sup> respondents, who re the inmates of the detenue, in that house. Despite repeated requests of a weeping mother and father, no positive answers were given by any of them, except repeating the very same words "she had gone somewhere she did like". During the course of their discussion, the wife of the 4<sup>th</sup> Respondent told that detenue has connection with one Sherin and she might have gone to meet that Sherin. Somehow they managed to get the mobile number of the said Sherin (Mangalore), from the wife of 4<sup>th</sup> Respondent and it was 09591224012. At that time, the wife of Rajan had called to that number and the call was answered by a woman, replied that Sherin speaking. The wife of Rajan asked as whether the detenue and Jaseena had reached there? Immediate response of the said Sherin was that that "Yes, they had reached." Further it

was replied as "Jaseena and her father did bring her to Kozhikode". At this time, suddenly the lady who was on the other side disconnected the phone and thereafter she did not respond, despite calling from several other mobile phones also.

7. It is respectfully submitted that, without any other alternative the petitioner preferred a written complaint before the 3<sup>rd</sup> Respondent, the Deputy Superintendent of Police, Perinthalmanna and he had forwarded that complaint to the 6<sup>th</sup> Respondent, the Sub Inspector of Police for conducting enquiry. True photo copy of the complaint filed before the third respondent is produced herewith and marked as EXHIBIT P1. True copy of the acknowledgement receipt bearing receipt No 18 issued by the third respondent is produced herewith and marked as EXHIBIT P2.
8. It is respectfully submitted that, this is the sad plight of the parents of an unmarried



daughter, having 23 years of age. Though they have knocked all available doors in their aid, their hopes are still in limbo. The petitioner is absolutely unaware of the whereabouts and state of being of his only daughter. He has reasonable apprehension that she is under the illegal detention of the respondents No.4, 1, 8 and some other men of them, who are unknown to the Petitioner, whose intention is to convert the religion of the detainee, for the reason unknown to the Petitioner. Petitioner does believe that even her life itself is in peril. The petitioner thus have no other alternative or efficacious remedy than to approach this Honourable Court for finding out his missing daughter and for a proper investigation by the official respondents to find out the detainee and produce before this Honourable Court from the illegal detention of respondents 4, 7 and 8 and their henchmen.

Under these circumstances, left with no other efficacious or alternative remedy in to

seek the mercy and kind indulgence of this Hon'ble Court, the petitioner most humbly prefers this writ petition under Article 226 of the Constitution of following among other

G R O U N D S :

- A. The detention of the detenue by respondent Nos. 4, 7 and 8 or anybody under them or their henchmen is unjust, unfair, unreasonable, illegal, irregular, irrational and procedurally improper and hence violative of Articles 21 and 19 of the Constitution of India.
8. The Petitioner has a reasonable apprehension that the detenue is under the illegal detention of the respondents No.4, 7, 8 and some other men of them who are unknown to the Petitioner, whose intention is to convert the religion of the detenue, for the reason, unknown to the Petitioner.



- C. Petitioner does believe that unless she is released from the illegal detention, even her life itself, is in danger.
- D. From the manner and language of the wife of the 4<sup>th</sup> respondent, the Petitioner and his family understood that the Detenue was send to somewhere for undergoing a religious conversion. Though they though that the said Sherin was a man, it is understood later that it is a woman. So, the purpose of such a move is still unknown to the petitioner, who is the unfortunate father of the detenue.
- E. Dehors Article 25 of the Constitution of India, which confers the fundamental right to\*profess, propagate and practice any religion in India, Article 25 does not entitle a person to indulge in activities for compulsory religious conversion. Any use of force or allurement for propagation of religion is illegal.

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- F. As observed by the Division Bench of this Honourable Court in the matter of Shahan Sha A and another v. State of Kerala reported in 2010 (1) K.H.C 121, concerted effort to convert girls belonging to a particular religion to another religion is unconstitutional and violative of Article 25 of the Constitution of India.
- G. Simply because a boy or girl has become major, that does not mean that the parents have no say in the matter of their future and their career.
- H. The parents are entitled to protect the future of their children. Parents are entitled to advise their children and mould their career.
- I. The right conferred under Article 25 of the Constitution of India does not enable a stranger to deny the rights of the parents of girls. Article 25 is aimed at protecting individual freedom. It is not aimed at



destroying the family set up and culture. In our country, there are laws for protecting the rights of the parents. There are also laws compelling the parents to provide for even major children in certain circumstances. The laws in our country are aimed at protecting the rights of our citizens and protecting culture and tradition of our citizens.

- J. The fundamental right enshrined under Article 25 of the Constitution that all persons are equally entitled to freedom of conscience and the right to profess, propagate and practice religion, is subject to public order, morality and health and to other provisions of Part III of the Constitution of India. Educational institutions, professional colleges and other institutions where the young people are; engaged in their pursuit for learning and acquiring knowledge are not certainly the breeding grounds for propagating religion. The framers of the Constitution would not

have thought of conferring educational institutions as the venue for propagating religion and for promoting religious conversion.

K. Article 39 (1) of the Constitution of India enshrined that "children are given opportunities and freedom and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and YOUTH are protected against the exploitation are against moral and material abandonment.

L. Urgent intervention of this Honourable Court by invoking the wide powers under Article 226 of the Constitution of India is highly inevitable in this case, unless irreparable injury and hardship would be caused to the petitioner and his family and also the life of the detainee.

For these and other grounds to be urged at the time of hearing it is most humbly prayed that this Honourable Court be pleased to issue:



- i. a writ of habeas corpus commanding respondents to cause the production of the detenue Akhila Asokan, aged 23 years, daughter of Asokan, Karattu House (Devi Kripa) T.V.Puram P.O., Vaikom, Kottayam district, who is now kept under the illegal detention of Respondents 4, 7 and 8 and their henchmen, before this Honourable Court and set her at liberty, forthwith;
- ii. pass such other order or relief as this Honourable Court may deem fit and proper in the circumstances of this case, interest of justice, equity and good conscience.

Dated this the 12<sup>th</sup> day of January 2016

Counsel for the petitioner  
Petitioner

#### INTERIM RELIEF

For the reasons stated in the Memorandum of Writ Petition (Criminal) and the affidavit accompanying the same, it is humbly prayed

that this Honourable Court may be pleased to direct the respondents to produce the detenue Akhila Asokan, years, daughter of Asokan, Karattu House (Devi Kripa) T.V.Puram P.O., Vaikom, Kottayam district, who is now kept under the illegal detention of respondents 4, 7 and 8 before this Honourable Court at the earliest, pending final disposal of the above writ petition.

Dated this the 12<sup>th</sup> day of January 2016.

COUNSEL FOR THE PETITIONER

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BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM  
W.P. (Crl.) No. 25 of 2016

Asokan K.M : Petitioner  
Vs.  
The State of Kerala and others. : Respondents

AFFIDAVIT

I, Akhila Ashokan @ Adhiya, Aged 24, D/O Ashokan, Devikripa, T.V.Puram, Vikkam, Kottayam do hereby solemnly affirm and state as follows:

1. I am the petitioner in the accompanying petition for impleading. The above writ petition is for a writ of habeas corpus directing the respondents 4, 7 and 8 to produce the daughter of the petitioner Ms. Akhila Ashokan, before this Hon'ble Court and set her at liberty without any bonafides. I am the alleged detenu referred in the above writ petition and I appear before this Hon'ble Court on my own volition after having coming to know about the above writ petition.

2. I am filing a petition for impleading me as additional 9<sup>th</sup> respondent and my contentions may be considered in the above writ petition which is filed by the petitioner alleging that the respondents 4, 7 and 8 have kept me in illegal custody with intention to convert into Islam and that my life is in peril.

3. The above writ petition is an abuse of the process of the court and the allegation made in the writ petition are absolutely false.

4. I am major, aged 24 and doing house surgency in B.H.M.S, Shivaraj Homeopathy Medical College, at Selem after completing the course. While doing my BHMS course, I was staying in a rented house at Salem along with my friends. Among my roommates include two Muslim friends namely Jaseena and Faseena belonging to Perinthalmanna, Malappuram and three Hindu friends namely Archana, Dhilna and Divya.

5. I was impressed by the timely prayers performed by the aforesaid two Muslim friends and was influenced by their good character. I wanted to learn about Islam and began reading Islamic Books and also viewing internet videos to learnt about Islam. My doubt about the concept of many gods in Hindu faith and confusion as to which God, I should pray was being gradually getting cleared and the ideology of one GOD propounded by Islam started appealing to my mind more logical. I



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started following Islam since last three years without formally announcing my Change of faith.

6. I used to pray both at the room and even at my own house. In one occasion the petitioner saw me performing Namaz and he warned me against Islam saying that it is a religion of terrorism. My mother being an ardent believer in Hinduism wanted me to follow Hinduism. Therefore I was forced to keep my faith in Islam secret at least at home. While so, my Grandfather died in November 2015, when the I was at Salem. I came home to attend the funeral ceremony. As per Hindu custom, my father being the eldest son was to perform the "Bali" but being a agonist, he did not do that and kept away from all such rituals. The other relatives participated. I also kept away from such ceremonies in the 1<sup>st</sup> day but in the 2<sup>nd</sup> day the relatives forced me to participate in the Bali and I had to oblige them. This incident has caused deep mental agony being a Muslim and I resolved to become Muslim lest in future also I may have to involve in such rituals which are prohibited in Islam.

7. Therefore I left her home on 2.1.2016 with a resolution to accept Islam and I directly went to my friend Jaseena instead of going to Salem. I have explained to Jaseena the ordeal of performing Bali against my faith and sought her help to become Muslim officially. Jaseena informed her father Mr. Aboobacker and he promised to get me admitted in some institution having special courses for converts to Islam.

8. Accordingly Mr. Aboobacker took me to one institution namely KIM. They informed him that since I does not possess any certificate of being converted to Islam, they cannot admit in their institution. Mr. Aboobecker then took me to Tharbiath on the advice of KIM. At Tharbiathul Islam Sabha they agreed to admit me as an external candidate and issue books and syllabus of the course designed for new Muslims but for being admitted as internal student to study staying in hostel, they insisted to bring my parents. Finding no option, the 1<sup>st</sup> petitioner expressed to join as external candidate. They took an affidavit and other details from me and admitted me as external candidates for writing the exam designed for new Muslims. Photocopy of the admit card issued by Tharbiathul Islam Sabha is produced herewith and marked for reference as Annexure A1. True copy of the Affidavit submitted at Tharbiyathul Islam sabha is produced herewith and marked for reference as Annexure A2.



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✓ 9. It is submitted that Mr. Aboobaker, the father of my friend Jaseena did not want to keep me at his house and therefore approached another institution by name Satyasarani for exploring as to whether I could be admitted in their hostel for Islamic course. It was about 8 pm when he took me to Sathya Sarani. The officials at Satyasarani informed that the concerned person for admission is not available and advised them to report after two days with a notarized affidavit. Agreeing to this Mr. Aboobacker and me returned to his home. I stayed at Aboobecker's place from 2.1.2016 to 4.1.2016:

10. On 5.1.2016, Mr. Aboobecker told me that he cannot help anymore and that I should go back to Salem. Accordingly I was sent back to Salem on 5.1.2016. On 6.1.2016 I went to the college wearing a scarf for the first time declaring openly her change of faith. My friends when asked, I informed them that I has officially become a Muslim. My Hindu friend and roommate Miss Archana wanted to know whether I had informed her parents. I told her that yes I have informed my parents also. Miss Archana did not believed and she phoned to my parents and asked whether I had informed home about my conversion to Islam.

11. On 6.1.2016 at about 3.p.m. I received a phone from my mother informing that my father met with an accident and sustained a fracture injury on his legs and that I should come immediately. I knew that the said information was false and it is only a ploy to get me back at home.

12. It is submitted that I not knowing as to what to do, finally decided to go to Jaseena's house at Perunthalnanna Malappuram. Accordingly I reached at Jaseena's house at about 1a.m. on 7.1.2016. On the way to Perinthalmanna a call from the petitioner came to inform that if I do not return home by 6.a.m., he will commit suicide. I thereafter did not attend any call from my house.

13. I on my way to Perinthalmanna informed Satyasarani that I would like to be admitted on 7.1.2016 itself and that I would be available at my friend Jaseena's house. I also requested them to take me from Jaseena's house as her father is not agreeable to do any help and I do not know the route to the institution.

14. It is submitted that on my request, the Satyasarani contacted Sainaba, a social worker who is a senior psychologist and secretary to National women's front, and a

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volunteer of Kerala Legal Service Authority and sought her help in the matter. She was asked to meet me and render some help as I want to get admitted in the institution. Accordingly the said Sainaba came to Jaseena's house to meet me. Seeing that there was serious difference between Aboobacker and myself in the matter of handing over me to the Petitioner she left the place leaving the matter to be sorted out between me and Aboobacker and his family.

15. Later, I approached the said Sainaba, after leaving the house of the Jaseena and sought her help and she was gracious enough to help me at that moment of crisis. Accordingly I am staying with the said Sainaba and her family from 7.1.2016 onwards.

16. In the meanwhile, I sent a registered letter to the Petitioner on 11.1.2016 informing that on account of the complaint filed by him the police is harassing my friends and hence pleaded that he should not pursue the complaint for police to harass me and my friends. In the said letter I informed my father that I had left home to protect my faith and being fully aware of the material loss I may face which otherwise I could enjoy as the only daughter. A true copy of the said letter sent by registered post is produced herewith and mark for reference as Annexure A3.

17. I have also addressed a letter to the Director General of Police with copy marked to Circle Inspector of Police Perinthalmanna and Sub Inspector of Police, Vaikom stating inter alia that I left her home by my own volition and that I embraced Islam which I have been practicing for 3 years and that I would like to live as Muslim which is not possible with my parents and that the complaint by the petitioner is false and intended only to harass me and friends. I have also enclosed a copy of Annexure A3 request made to petitioner to desist from pursuing his complaint. True copy of the letter addressed to the Director General of Police with the copy marked to the Circle Inspector of Police Perinthalmanna and Sub Inspector of Police, Vaikom is produced herewith and mark for reference as Annexure A4. The postal receipt issued by the postal department for sending Annexure A3 and A4 to the addresses therein and is produced herewith and marked for reference as Annexure A5.



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18. It is submitted that a crime had been registered by the Perinthalmanna police as Crime No. 21/2016 for missing. It is learned that my friend's father Mr. Aboobacker was questioned by the police and arrested and released on bail.
19. It is submitted that the said Sainaba received a call from the Circle Inspector of Police Perinthalmanna on 13.1.2016. Sensing police harassment, we are forced to go away seeking shelter elsewhere.
20. It is submitted that I am a major and it is my fundamental right to choose a religion of my choice. The petitioner cannot interfere in my right to belief and practice. I voluntarily left my home and accepted Islam by exercising my free will. Since myself and aforesaid Sainaba were haunted by the police on the false complaint of the petitioner, we filed a writ petition against police harassment on the false complaint of the petitioner and sought protection in WP (C) No. 1965/2016 which came for consideration before this Hon'ble Court yesterday and myself and Sainaba were present in the court. This Hon'ble Court directed the Government Pleader who appeared for the Respondents therein to instruct the Police not to harass the petitioner or her friends and I was permitted appear before this Hon'ble Court when it was informed that there is a Habeas Corpus case pending.
21. I am a major and has taken a decision to follow the religion of Islam which I have been holding close to my chest for the last three years. I will have no freedom to practice my religion at home and such practice at home will only invite more hatred from parents and all other relations which I have already experienced. It is a question of protecting one's fundamental right and nobody for that matter even the parents cannot interfere. My right to faith and practice and liberty is at peril and the petitioner misusing his role and is bent upon depriving me the fundamental rights guaranteed under Article 19, 21 and 25 of the constitution of India on the false complaint of the petitioner.
22. The petitioner by filing a false complaint without disclosing the true facts to his knowledge has committed the offence punishable under Section 182 IPC. The Director General of Police, Circle Inspector of Police Perinthalmanna and Sub Inspector of Police, Vaikom has abused their office by concealing the receipt of Annexure A3 and A4 from the court and acted on extraneous consideration making my life and my friends and their family.

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23. I have the right to choose my religion and those helped cannot be accused of having abetted for conversion. There is no outrageous action of religious feeling of any body by the conversion of me. The interference of the petitioner is nothing but an intrusion to my fundamental right to life.

24. It is submitted that I am not under illegal detention. I have a right to chose my life and lead a life of my choice. Petitioner has no right to interfere in my choice and seek my custody to enforce his whims and fancies.

25. I have filed a petition for impleading me as additional 9<sup>th</sup> respondent which may kindly be allowed and it is prayed that this Hon'ble Court may dismiss the above writ petition having regard to the facts stated herein above.  
All the facts are true and correct.

Dated this the ~~19~~<sup>19</sup> day of January, 2016.

DEPONENT.

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 19<sup>th</sup> Day of January 2016. at my office at Ernakulam.

ADVOCATE P.K.IBRAHIM.

7/c





**Annexure P-6**

IN THE HIGH COURT OF KERALA AT

ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR.JUSTICE SHAJI P.CHALY

Tuesday, the 19th day of January 2016/29th Pousha,

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WP (Crl.) No.25/2016 (S)

**PETITIONER:**

ASOKAN.K.M  
AGED 56 YEARS,  
S/O.MANI, KARATTU HOUSE, (DEVI KRIPA)  
T.V.PURAM P.O., VAIKOM,  
KOTTAYAM DISTRICT.  
BY ADV. SRI.C.K.MOHANAN

**RESPONDENT:**

1. THE STATE OF KERALA REPRESENTED BY ITS  
PRINCIPAL SECRETARY DEPARTMENT OF HOME  
AFFAIRS, GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM - 695 001.
2. THE SUPERINTENDENT OF POLICE  
MALAPPURAM - 679 001.
3. THE DEPUTY SUPERINTENDENT OF POLICE  
PERINTHALMANNA - 679 322.

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4. ABOOBACKER PERAYIL HOUSE,  
CHIRAKKAPARAMBU, ANGADIPURAM P.O.  
PERINTHALMANNA, MALAPPURAM DISTRICT, PIN  
- 679 321.
5. THE CIRCLE INSPECTOR OF POLICE  
PERINTHALMANNA - 679 321.
6. THE SUB INSPECTOR OF POLICE  
PERINTHALMANNA - 679 321.
7. SMT. JASEENA D/O.ABOOBACKER, PERAYIL  
HOUSE, CHIRAKKAPARAMBU ANGADIPURAM  
P.O., PERINTHALMANNA, MALAPPURAM  
DISTRICT, PIN - 679 321.
8. SMT. FASEENA D/O.ABOOBACKER, PERAYIL  
HOUSE, CHIRAKKAPARAMBU ANGADIPURAM  
P.O., PERINTHALMANNA, MALAPPURAM  
DISTRICT, PIN - 679 321.

Writ Petition (criminal) praying inter alia that in the tancea stated in the affidavit filed along with the WP(Crl.) the High Court be pleased to direct the respondents to produce the detenue Akhila Asokan, aged 23 years, daughter of Asokan, Karattu House (Devi Kripa) T, V.Puram.P.O., Vaikom, Kottayam District, who is now kept under the illegal detention of respondents 4,7 and 8 before this Honourable Court at the earliest, pending final disposal of the above writ petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of



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WP (Crl.) and this Court's order dated 14.01.2016 and upon hearing the arguments of HR.C.K.MOHANAN, Advocate for the petitioner and GOVERNMENT PLEADER RI to R3 & R6, the court passed the following:

C.K. ABDUL REHIM &

SHAJI P. CHALY, JJ.

W.P. (Crl.) No.25 of 2016

Dated this the 19<sup>th</sup> day of January, 2016.

ORDER

Abdul Rehim.T.

When the above writ petition came up for admission on 14.1.2016 we directed the Government Pleader to get instructions from respondents 5 and 6 with respect to the actions if any taken on the basis of Ext.P1 complaint alleged to have been submitted by the petitioner with respect to missing of his daughter, Miss Akhila Asokan.

2. Today when the case is taken up the alleged detenue appeared in person. She had also filed an impleading petition through a counsel.

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3. Learned Government Pleader on instructions submitted a case registered at Perinthalmanna Police Station as Crime No.21/2016 under Section 57 of the Kerala Police Act with respect to missing of the alleged detainee from the house of the " respondent on 7.1.2016, is under investigation. Investigation so far conducted revealed that, the alleged detainee got interested in joining Islam religion and requested for the help of the 7<sup>th</sup> respondent in that respect. The 4<sup>th</sup> respondent who is the father of the 7<sup>th</sup> respondent made preparations to get an affidavit of the alleged detainee executed before a Notary Public, in the form of a declaration that the alleged detainee is accepting Islam, without persuasion from anybody. It is also revealed that the 4<sup>th</sup> dent had taken her to certain institutions at Kozhikode and Manjeri, which is known as conversion centres. Investigation of the case was handed over to the Inspector of Police, Perinthalmanna on 9.1.2016. Thereafter various attempts were made to trace out the alleged



detenue. During the investigation it was revealed that the 4<sup>th</sup> respondent has got deep involvement in the case in instigating and motivating the alleged detenue to join Islam. It is also alleged that he had conspired with certain persons in a manner affecting communal harmony. Therefore, the case registered was altered as one punishable for offences under Section 153A, 295A and 107 of Indian Penal Code. The 4<sup>th</sup> respondent was arrested on 11.1.2016 and he was remanded to judicial custody by the Magistrate Court at Perinthalmanna. Subsequently, the investigation of the case was taken over by the Deputy Superintendent of Police, Perinthalmanna (the 3<sup>rd</sup> respondent herein) and it is under progress. The 3<sup>rd</sup> respondent had questioned various persons in this respect.

4. In the affidavit filed along with the application for Impleading, the alleged detenue had stated that she is a major aged 24 years, doing her 'House Surgency' in BHMS at the Shivraj Homeopathy

Medical College, Salem. According to her, she got impressed with prayers performed by her Muslim friends and started reading Islamic books and viewing internet videos to learn more about Islam. Thereafter she started following Islam since the last 3 years, without formally announcing the change of faith. According to her, after she had participated in the rituals in connection with the death of her grandfather during November, 2015, she had left home on 2.1.2016, with a resolution to accept Islam. The 7<sup>th</sup> respondent, who is her friend in the college had informed the 4<sup>th</sup> respondent about the decision of the alleged detainee. The 4<sup>th</sup> respondent had promised that she will be admitted to some institution imparting having special course with respect to conversion to Islam. Accordingly the 4<sup>th</sup> respondent took her to some institutions at Kozhikode and she got admission in one of the institution by name, 'Tharbiathul Islam Sabha', on submitting an affidavit, as an external candidate. But the 4<sup>th</sup> respondent was not prepared to keep her at his house. Therefore, another institution by



name 'Sathyasarani' was approached to get her admitted in a hostel. The alleged detainee was advised to report to that institution after two days along with the notarized affidavit. Therefore, she stayed in the house of the 4<sup>th</sup> respondent from 2.1.2016 to 4.1.2016. But on 5.1.2016 the 4<sup>th</sup> respondent sent her back to Salem, saying that he cannot help her any more. On 6.1.2016 she went to the college wearing a scarf, for the first time openly tring her change of faith. Thereupon a friend of the alleged detainee viz., Archana gave information about this to the petitioner. Thereafter on 6.1.2016 members of the alleged detainee's family wanted her to come back to the home. But she had decided to go to the house of the 4<sup>th</sup> respondent and accordingly reached Perinthalmanna on 7.1.2016. It is stated that the alleged detainee had contacted the institution 'Sathyasarani' and informed that she will be available in the house of the 4<sup>th</sup> respondent. As requested by the institution she

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contacted a lady named Sainaba who is a social worker and Senior Psychologist and Secretary to the National Womens' Front and a Volunteer of Kerala Legal Service Authority. Accordingly the said lady came to the house of the 4<sup>th</sup> respondent. But after coming to the house of the 4<sup>th</sup> respondent she left the place noticing the difference of opinion between the 4<sup>th</sup> respondent and the alleged detainee. The alleged detainee later approached the said lady and sought her help. Afterwards, the alleged detainee is staying along with the said SmtSainaba in her house. It is also stated that the alleged detainee had submitted letters to the petitioner and to Police authorities making her stand clear. It is further stated that since SmtSainaba had received various calls from the Police authorities, she along with the alleged detainee had filed a writ petition before this Court as W.P.(C) No.1965/2016 seeking protection from Police harassment. The alleged detainee had specifically mentioned that, she has got freedom to take a decision to follow the religion of Islam,



which cannot be interfered by her parents. It is stated that nobody had induced her for the conversion and that the interference by the petitioner is only an intrusion into her fundamental rights.

5. When interacted the alleged detainee had given statements perfectly in tune with the contents of the affidavit filed by her. According to her, she is now staying with the lady named Smt Sainaba on her own free wish and will. She said that she is intending to join the institution named 'Sathyasarani' at Manjeri to pursue Islam studies required for the conversion. She is not in any manner willing to go along with the petitioner to her parental house.

6. We have also interacted with the petitioner who is personally present before this Court. According to him, despite much persuasion the alleged detainee is not willing to come along with him to the parental house. Learned Government Pleader submitted that as part of the investigation the 3<sup>a</sup>

respondent is intending to question the alleged detinue as well as the lady named 'SmtSainaba,' and their statements need to be recorded. The above said lady SmtSainaba is also personally present-before this Court. When we interacted with her, she revealed her identity as Smt.A.S. Sainaba of Srambickal House, Lthur. P.O., Kottackal in Malappuram District. According to her, she is a social worker and is a volunteer of the Legal Service Authority. She expressed her willingness to accommodate the alleged detinue and to facilitate her to pursue her religious studies, as well as to help her to complete internship of BHMS Degree. She said that she is living with her husband and two children in the above said address.

7. Even though learned counsel appearing for the petitioner made vehement requests to this Court to send the alleged detinue along with the petitioner, at least for a few days, the alleged detinue could not be persuaded to agree for the suggestion. Since the alleged detinue is taking an adamant stand



that she wanted to join the institution named 'Sathyasarani' at Manjeri and that she is not willing to go back to parental house, we are of the opinion that no order can be issued directing to take her forcefully to the house of the petitioner,

8. We are of the opinion that the alleged detainee need to be given liberty to take her own decision with respect to her future life. Since it is submitted by the alleged detainee that she is nothing to join for a course at the institution named 'Sathyasarani' at Marvjeri, we are of the opinion that her safety need to be ensured till she joins the said institution. Since the alleged detainee had expressed her strong desire to go along with Smt. Sainaba and to stay with her in her house, till she joins the above said institution, we are inclined to let her to go along with the said lady. Smt A.S.Sainaba had undertaken before this Court to provide accommodation in a safe manner to the alleged detainee. According to SmtSainaba she has no objection in the petitioner or his wife visiting the

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alleged detainee in her house. She also made an undertaking to produce documents obtained from the institution to the effect- that the alleged detainee is admitted there, within two days.

9. Under the above mentioned circumstances, the case is adjourned for further consideration to 25.1.2016. On that day the counsel for the alleged detainee or SmtSainaba with whom alleged detainee is sent, shall produce proof regarding admission of the detainee in the said institution. It is made clear that the 3<sup>rd</sup> respondent who is investigated the case will be at liberty to record the statement of the alleged detainee as well as SmtA.S.Sainaba, if required, from the house of Smt.Sainaba or from the institution to which the alleged detainee is admitted, subject to orders from this Court in W.P.(C) No.1965/2016.

10. The 3<sup>rd</sup> respondent will submit a report with respect to further development in the matter. The alleged detainee need be produced only on further orders from this Court.

Post on 25.2.2016.

Sd/-

C.K.ABDUL REHIM, JUDGE

Sd/- HAJI.P.CHALY,  
JUDGE

True copy

ASSISTANT REGISTRAR



Annex-17

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR. ASHOK BHUSHAN

&  
THE HONOURABLE MR. JUSTICE A.M. SHAFFIQUE

THURSDAY, THE 21ST DAY OF JANUARY 2016/1ST MAGHA, 1937

WP(C) No. 1965 of 2016 (U)

PETITIONERS:

1. AKHILA ASHOKAN & ADHIYA AGED 24 YEARS  
D/O. ASHOKAN, DEVIKRIPA, T.V. PURAM  
VILKAM, KOTTAYAM.
2. SAINABA AGED 40 YEARS  
W/O. ALI, SRAMBICKAL HOUSE, PUTHOOR P.O.  
KOTTAKKAL, MALAPPURAM DISTRICT - 676 503.

BY ADVS. SRI. P.K. IBRAHIM  
SMT. K.P. AMBIKA  
SMT. A.A. SHIBI  
SRI. A.L. NAVANEETH KRISHNAN

RESPONDENTS:

1. THE DIRECTOR GENERAL OF POLICE  
(LAW AND ORDER), POLICE HEADQUARTERS  
THIRUVANANTHAPURAM - 695 001.
2. CIRCLE INSPECTOR OF POLICE  
PERINTHALMANNA - 679 322.
3. THE SUB INSPECTOR OF POLICE  
VILKAM - 686 141.
4. ASHOKAN  
DEVIKRIPA, T.V. PURAM, VILKAM  
KOTTAYAM - 686 141.

R1 TO 3 BY GOVT PLEADER SRI. C.R. SYAMKUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
21-01-2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

kp/-

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ASHOK BHUSHAN, CJ & A.M. SHAFFIQUE, J.

W.P.(C). No.1965 of 2016

Dated this the 21<sup>st</sup> day of January, 2016 ✓

**JUDGMENT**

**ASHOK BHUSHAN, CJ**

Learned counsel for the petitioners submits that, in view of the order dated 19.1.2016 in W.P.(Crl.)No.25 of 2016, petitioners may be permitted to withdraw this writ petition.

Permission is granted. The writ petition is dismissed as withdrawn.

**ASHOK BHUSHAN,  
CHIEF JUSTICE**

**A.M. SHAFFIQUE,  
JUDGE**

kp/-21.01.16

Tlc



Annexure-18  
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BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM  
W.P. (Crl.) No. 25 of 2015

Asokan K.M : Petitioner  
Vs.  
The State of Kerala and others. : Respondents

**MEMO FILED BY THE COUNSEL FOR THE ADDL. 9<sup>TH</sup> RESPONDENT**

As per the order dated 19.1.2016 this Hon'ble Court directed to counsel for the alleged detainee or Smt.Sainaba with whom the alleged detainee was send, shall produce proof regarding the admission of detainee in the Sathasarani at Manjeri. As per the above said direction I am producing the copy of application for admission submitted by the alleged detainee to joining Markazul Hidayah, Sathyasarani Educational & Charitable Trust, Charani-Karuvambram P.O., Manjeri, Pin:676 123 and the communication dated 20.1.2016(wrongly showing in the communication dated 20.1.2015) given by the Manager, Markazul Hidayah, Sathyasarani Educational & Charitable Trust, which shows that the alleged detainee was admitted in Sathyasarani for two months course of Islamic studies and her admission number is 35/2016. I am producing the copy of application for admission dated 20.1.2016 submitted by alleged detainee and the communication given by the Manager, Markazul Hidayah, Sathyasarani Educational & Charitable Trust dated 20.1.2016(wrongly showing in the communication dated 20.1.2015)  
Dated this the 25<sup>th</sup> day of January, 2016.

COUNSEL FOR THE ADDL. 9<sup>TH</sup> RESPONDENT

T/C

Annexure P-9

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 25TH DAY OF JANUARY 2016/5<sup>TH</sup>

MAGHA, 1937

WP(Crl.).No. 25 of 2016 (S)

PETITIONER:

ASOKAN.K.M  
AGED 56 YEARS,  
S/O.MANI, KARATTU HOUSE, (DEVI KRIPA)  
T.V.PURAM P.O., VAIKOM,  
KOTTAYAM DISTRICT.  
BY ADV. SRI.C.K.MOHANAN

RESPONDENT:

1. THE STATE OF KERALA REPRESENTED BY ITS  
PRINCIPAL SECRETARY DEPARTMENT OF HOME  
AFFAIRS, GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM - 695 001.
2. THE SUPERINTENDENT OF POLICE  
MALAPPURAM - 679 001.
3. THE DEPUTY SUPERINTENDENT OF POLICE  
PERINTHALMANNA - 679 322.

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✓ 4. ABOOBACKER PERAYIL HOUSE,  
CHIRAKKAPARAMBU, ANGADIPURAM P.O.  
PERINTHALMANNA, MALAPPURAM DISTRICT, PIN  
- 679 321.

5. THE CIRCLE INSPECTOR OF POLICE  
PERINTHALMANNA - 679 321.

6. THE SUB INSPECTOR OF POLICE  
PERINTHALMANNA - 679 321.

✓ 7. SMT. JASEENA D/O.ABOOBACKER, PERAYIL  
HOUSE, CHIRAKKAPARAMBU ANGADIPURAM  
P.O., PERINTHALMANNA, MALAPPURAM  
DISTRICT, PIN - 679 321.

✓ 8. SMT. FASEENA D/O.ABOOBACKER, PERAYIL  
HOUSE, CHIRAKKAPARAMBU ANGADIPURAM  
P.O., PERINTHALMANNA, MALAPPURAM  
DISTRICT, PIN - 679 321.

\*9. AKHILA ASHOKAN @ ADHIYA AGED 24 YEARS,  
D/O. ASHOKAN, DEVIKRIPA, T.V. PURAM,  
VAIKKOM, KOTTAYAM.

R1 TO 3, 5 & 6 BY ADV.

SRI. TOM JOSE PADINJAREKKARA, ADGP &  
SRI.SHIBU JOSEPH, SR. GOVT. PLEADER

R9 BY ADVS.

SRI.P.K.IBRAHIM  
SMT.K.P.AMBIKA  
SMT.A.A.SHIBI  
SRI.A.L.NAVANEETH KRISHNAN

\*[ADDL. R9 IMPEADED AS PER ORDER DATED 19-  
01-2016 IN IA No.792/2016]



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THIS WRIT PETITION (CRIMINAL) HAVING COME  
UP FOR ADMISSION ON 25-01-2016, THE COURT ON  
THE SAME DAY DELIVERED THE FOLLOWING:

C.K. ABDUL REHIM, J.

& SHAJI P. CHALY, J.

W.P (Crl.) No. 25 OF 2016

----- DATED

THIS THE 25 th DAY OF JANUARY, 2016

#### J U D G M E N T

C.K. Abdul Rehimi, J:

Father of a girl aged 23 years, namely Miss. Akhila Asokan is the petitioner herein, who is approaching this court seeking a writ of Habeas Corpus for directing production of her corpus, based on an allegation that she is under illegal detention of respondents 4, 7 & 8.

2. Facts stated in brief are that, the daughter of the petitioner Miss. Akhila Asokan (herein after referred as the alleged detenue) was studying for BHMS course in an institution at Salem in Tamil Nadu State. She was staying in a rented house near to the college together with 5 other students, including respondents 7 & 8. During holidays the

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alleged detainee used to visit the house of respondents 7 & 8, who are daughters of the 4<sup>th</sup> respondent. There was also an occasion when the respondents 7 & 8 came to the house of the petitioner. The alleged detainee came to the house of the petitioner in connection with death of his father, on 06.12.2015. At that time family members and relatives of the petitioner noticed some changes in the behaviour of the alleged detainee, since she was seen reserved, introvert and too reluctant in participating in the rituals performed in connection with the funeral. Thereafter she went to Salem to join for her internship, along with respondents 7 & 8. She was in constant contact with the family of the petitioner till 05-01-2016. But on 06-01-2016 the petitioner got a telephone call from the father of one of her friends, namely Miss. Archana, informing that the alleged detainee had gone to the college on that day wearing a 'Parda'. It was informed that she got inspired by someone for a religious conversion to Islam. It is stated that, knowing about the

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information, the petitioner had a chest pain and he had fallen down. Eventhough the petitioner's wife made a call to the alleged detenue and informed about illness of the father, she was not ready to come to home. But the 7<sup>th</sup> respondent told her that she would also come with the alleged detenue. Accordingly the 7<sup>th</sup> respondent and the alleged detenue had left from Salem at about 8 p.m. on that day. But she has not reached the petitioner's house. Eventhough the petitioner went in search of the alleged detenue in the house of Miss. Archana, it was informed that the 4<sup>th</sup> respondent is keeping custody of the alleged detenue. When contacted it was promised that the 4<sup>th</sup> respondent will bring the alleged detenue to the house of Miss. Archana. But he was not brought as promised, and it was informed that she had escaped from the vehicle belonging to the 4<sup>th</sup> respondent and ran away to somewhere. Thereupon the petitioner preferred a complaint before the 3<sup>rd</sup> respondent as per Ext.P1, which was acknowledged through Ext.P2. But no effective steps were taken to find out the alleged



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detenue and to entrust her with the petitioner. Under such circumstances the above writ petition is filed raising a specific allegation of illegal detention.

3. When the case came up for admission, we directed the Government Pleader to get instructions regarding the action if any taken based on Ext.P1 complaint. On 19-01-2016 when the case is taken up for further consideration the alleged detenue appeared through a Lawyer and filed an application seeking impleadment, which was allowed. She was impleaded as Additional 9<sup>th</sup> respondent.
4. Learned Government Pleader on instructions submitted that the alleged detenue became interested in converting to Islam and the 4<sup>th</sup> respondent had taken her to certain institutions at Kozhikode and Manjeri which are known as conversion centres for the purpose of joining her there to undergo the course conducted in those institutions. It is stated that, based on the

information gathered to the effect that the 4th respondent had involved in instigating and motivating the alleged detainee for the conversion, the case already registered was converted into one punishable for offences under Section 153A, 295A & 107 of IPC. It is also stated that 4<sup>th</sup> respondent was arrested and he was remanded to judicial custody.

5. In the affidavit filed before this court by the alleged detainee, in support of the application for impleadment, it is stated that she got impressed with prayers performed by her friends and started reading Islamic Books and viewing Internet Videos to learn about Islam. In the affidavit the alleged detainee had stated that she was following Islamic rituals and customs since the last 3 years, without formally announcing the change of faith. According to her, she left her home after participating in the funeral of the grandfather on 02-01-2016, with a resolution to accept the religion of Islam. When informed, about this the 4<sup>th</sup> respondent had

promised to get admission for her in some institutions imparting special courses with respect to conversion to Islam. Accordingly the 4<sup>th</sup> respondent took her to some institutions at Kozhikode. She got admission as an external candidate in one of the institution by name, 'Tharbiathul Islam Sabha', on submitting an affidavit. But the 4<sup>th</sup> respondent was not prepared to keep her at his house. Therefore another institution by name 'Satyasarani' was approached, where she was promised to be admitted in a Hostel. According to the alleged detainee, she stayed in the house of the 4<sup>th</sup> respondent from 02-01-2016 to 04-01-2016. She was sent back to Salem by the 4<sup>th</sup> respondent, stating that he could not help her any more. Thereafter on 06-01-2016 she went to the college wearing a scarf, for the first time openly declaring her change of faith. On getting knowledge about the conversion, the family members wanted the alleged detainee to come back to the house. But the alleged detainee had decided to go to the house of the 4<sup>th</sup>



respondent, and accordingly she reached the house of the 4<sup>th</sup> respondent on 07-01-2016. When she contacted the institution named 'Satyasarani', she was advised to contact a lady who is a social worker and an activist. Eventhough the said lady was coming to the house of the 4<sup>th</sup> respondent, noticing the difference in the attitude of the 4<sup>th</sup> respondent she left the place. Thereafter the alleged detainee approached the said lady, who has permitted her to stay at her house. At the time when she appeared before this court she is staying along with the said lady named, Smt.Sainaba.

6. It is informed that the alleged detainee along with the above said Smt. Sainaba had filed another writ petition seeking protection from police harassment, as W.P (C) No.1965/2016, since there were constant threats from the side of the police authorities. When we interacted the alleged detainee had narrated all the above aspects in tune with her affidavit. She said that she is presently staying along with the lady named Smt. Sainaba, on her own free wish and will. She said that she is

intending to join the institution named 'Satyasarani' at Manjeri to pursue Islamic studies. She said that she is not under any illegal confinement against her free will. Despite much persuasion made by this court, the alleged detainee is not willing to go along with the petitioner to her parental house. When we interacted with the lady named, Smt. Sainaba she expressed willingness to accommodate the alleged detainee in the Hostel of the institution named 'Satyasarani' and that she will render all necessary help to the alleged detainee to pursue her internship of BHMS Degree course. Since the alleged detainee had taken an adamant stand that she wanted to join the institution 'Satyasarani', Manjeri and she was not willing to go back to the parental house along with the petitioner, this court had permitted the alleged detainee to go along with Smt. Sainaba, to stay in her house till she joins the above said institution. Thereafter the case was adjourned for further consideration, directing to produce proof regarding admission of the alleged detainee in the said



institution. The police authorities were given liberty to get statement of the alleged detainee and the lady named Smt. Sainaba recorded, for the purpose of investigation of the case already registered, subject to orders if any passed in the other writ petition.

7. When the case is taken up for consideration on today, counsel appearing on behalf of the alleged detainee had produced documents to show that the alleged detainee got admission in an institution namely 'Markazul Hidayah Sathiyasarani Educational & Charitable Trust at Karuvambram, Manjeri in Malappuram District. The documents will reveal that she is admitted in the said institution on 20-01-2016. Learned counsel for the alleged detainee submitted that she is staying in the Hostel of the said institution. Learned Government Pleader submitted that, statement of the alleged detainee required for the purpose of investigation of the case has already been recorded.
8. Under the above mentioned circumstances, we are convinced that the alleged



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detenue is not under any illegal confinement. She is at present staying in the above said institution on her own wish and will. She is not under illegal confinement. Therefore there exists no circumstances warranting interference for issuance of any writ of Habeas Corpus. Hence the original petition is hereby disposed of by recording the fact that the alleged detenue is staying in the above said institution on her own free will. It will be left open to the petitioner and her family members to make visit to her at the above institution, subject to regulations if any regarding visiting time.

Sd/- C.K. ABDUL REHIM,  
JUDGE.

Sd/- SHAJI P. CHALY,  
JUDGE

//True Copy//

T/C

Estd. 1936



## Therbiyathul Islam Sabha

P.I. ROAD, MUKHADAR, CALICUT - 673 003  
(Registered under the act XXI of 1860, Reg. No. S2/43)  
Phone: 0495 - 230563, 2306013  
E-mail: therbiyath1936@gmail.com

### DISCHARGE CERTIFICATE

Certificate No:	6247
<u>Name of Convert</u>	HADIYA
Present Name:	AKHILA ASOKAN
Previous Name:	ASOKAN
Name of father:	PONNAMMA
Name of mother:	Present Address
Permanent Address	
DEVIKRIPA, T.V.PURAM PO, VAIKOM, KOTTAYAM, 686 606	
Former Religion:	HINDU
Caste:	EZHAVA
Age:	24
Sex:	FEMALE
Identification Mark:	A BLACK MOLE ON THE LEFT EYE BROW
Admission Register No:	346/16
Date of Admission:	16-07-2016 ✓
Date of Discharge:	25-07-2016 ✓
Progress of study	SATISFACTORY
Conduct	GOOD

This is to certify that HADIYA has embraced Islam and successfully completed the Islamic course conducted by Therbiyathul Islam Sabha. ✓

Therbiyathul Islam Sabha,  
Mukhadar  
Calicut. 25-07-2016

  
President/Secretary



Annexure-10

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ANNEXURE-P //

ADVOCATE IN THE HONOURABLE HIGH COURT  
KERALA AT ERNAKULAM  
W.P. (C) No. 297/2016

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BETWEEN

Asokan K.M.

: Petitioner

AND

The Superintendent Police & Others.: Respondents

SYNOPSIS

The petitioner's unmarried daughter, a BHMS graduate is being tried to be taken away to Syria to join ISIS as stated in the writ petition. They are also trying to take her out of the country for terrorist training. Though complaints filed before the respondents 1 to 5 and no positive action is taken by them so far to prevent her from being out of the country. To save their skin from the Ext. P4 petition the respondents 6 and 7 are taking emergency steps to fabricate a false marriage of the detainee with a person affiliated to an extremist Islamic Organization. Hence this writ petition (Crl.) that may kindly be allowed in the interest of justice and in the



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larger national interest. This Hon'ble Court is the only solace and hope to the petitioner and his family.

BETWEEN

Asokan K.M.,  
S/O. Mani, Aged 56,  
Karattu House (Devi Kripa)  
T.V. Puram Post, Vaikom,  
Kottayam District, Kerala.  
Petitioner

AND

1. The Superintendent of Police,  
Malappuram Dist., PIN-
2. The Superintendent of Police,  
Kottayam Dist., PIN-
3. Inspector General of Police,  
Ernakulam Range, Kochi, PIN-
4. The Director General of Police (Law & Order),  
Police Head Quarters, Trivandrum - 695001.
5. National Investigation Agency,  
Represented by the Superintendent of Police (NIA),  
No. 28/443, 4<sup>th</sup> Cross, Giri Nagar,

Kadavanthra, Kochi, PIN -  
Through Special Public Prosecutor (NIA),  
High Court of Kerala, Eranakulam.

6. Markazul Hidayah,  
Sathyasarani Educational & Charitable Trust,  
Karuvambram P.O., Manjeri, Malappuram District,  
PIN - 676123.  
Represented by its Manager.
7. Sainaba A.S.,  
Aged about 45,  
Srambikcal House,  
Puthoor P.O., Kottackal,  
Malappuram District.  
Respondents

Notices and process on the petitioner may be served on  
his Counsel C.K. Mohanan, KHCAAGJ Complex, High  
Court of Kerala, Kochi-31 and on the respondents at the  
address shown above.

MEMORANDUM OF WRIT PETITION (CRIMINAL) FILED  
UNDER ARTICLE 226 OF THE CONSTITUTION OF  
INDIA

1. The petitioner is an Army Pensioner belonging to a  
Hindu Ezhava family, having only one offspring, a

daughter named Ms. Akhila, aged 23, (hereinafter referred as 'the detainee') who has completed B.H.M.S. course from the Sivraj Homoeopathic Medical College, Salem and was doing the house surgery.

2.

The 6<sup>th</sup> respondent Sathyasarani, is an illegal Islamic conversion centre run by the Social Democratic party of India (herein after referred as SDPI) / Popular Front of India (herein after referred as PFI), both formerly N.D.F. an organization formed by the leaders of "SEMI", when it was banned by the Union Government, after it was discovered that it was an anti-national Islamic organization indulging in anti national activities and working overtime for the speedy Islamization of India and implementation of Sharia law in the country. One of its slogans audaciously wrote widely on the walls of Kerala/India was "The liberation of India is only through Islam", and "we will transform Kerala into another Kashmir" (what they meant was that they would massacre all the



Hindus from the State of Kerala or expel them, in the same manner, all the Hindus of the Kashmir valley were expelled/massacred. Quram Chapter 59 is titled "expulsion" referring to the expulsion of the Banu Nadir Jews from Medina by Mohammed), SDPI/PFI, the parent organization of the 6<sup>th</sup> respondent, is an extremist Islamic organization judicially found to be involved in many anti-national/extremist activities, such as conducting anti-National Arms Training Camp, at Narath and in the merciless incident in which the palm of Prof : T.J. Joseph was chopped off. The 7<sup>th</sup> respondent is the National President of the 'National Women's Front', the women's wing of the PFI/SDPI. The Government of Kerala, itself admitted before this Hon'ble Court that the SDPI/PFI is a blatant anti-national organization engaged in anti-national propaganda and it rigorously attack on all other religions other than Islam and they also pursue a virulently fundamentalist and communal agenda and it is a totally communal organization. The government also admitted before the Court that the

secret activities of NDF/PFI would show that they are clandestinely engaged in whole time criminal activities apparently with the object to 'defend Islam'. It also submitted before the Court that organizations had involved in 27 murders against the cadres of the CPI(M) and the RSS as on 23.07.2012. The government also submitted before the Court that the above organizations were formed by the banned 'SIMI', and the true copy of the statement filed by the Senior Government Pleader of the State of Kerala in W.P.(C) 16249/2012 dated 23.07.2012 is produced herewith and marked as Exhibit P1, for the kind perusal of this Hon'ble Court. Recently, Sri. Pinarayi Vijayam, the Hon'ble Chief Minister of Kerala had authoritatively stated in the Kerala Assembly on 18.7.2016 based on the reports of the Intelligence Agencies, that the SDPI is an organization imparting expert training to its Muslims cadres to kill others especially the non-Muslims and its activities would be monitored very seriously and action would be taken against the police officials for having committed lapses in



containing its activities. Sri. Ramesh Chinnithala, Senior Congress leader, the leader of Opposition in the Assembly and the former Home Minister of the State declared in the Assembly, again based on the reports of intelligence agencies that the SDPI is engaged in recruiting people to the dreaded ISIS, which has declared that its goal is the ethnic cleansing of the entire non-Muslim population from the face of the earth. Sri. Parakkal Abdulla, a "Muslim League" leader and M.L.A. stated in same venue that SDPI is a terrorist organization and it recruits Muslim of Kerala to the ISIS and the organization poses grave threat to the nation.

3. The roommates of the detenue at Salem were two fanatic Muslim sisters Jaseena and Faseena, daughters of one Aboobacker, Perayil House, Chirkkaparambu, Angadippuram, Perinthalmanna, Malappuram district and under their evil influence and instigation she was misled, misguided and forced to have a totally mistaken inclination



towards Islam, being totally ignorant of its evil and inhuman aspects.

4. On 06.01.2016 the detainee was taken away from Salem to the 6<sup>th</sup> respondent Sathyasarani, the illegal Islamic conversion centre, by the above said Jaseena and Faseena, with the active assistance and connivance of their father Aboobacker, a criminal, for her conversion to Islam under inducement, undue influence, compulsion, duress, threat and kept her under illegal detention there.
5. After the sudden disappearance of the detainee, these wolves in the garb of sheep feigned ignorance to the petitioner, a wailing father, who had lost his only child, about her whereabouts and the he was forced to file a complaint before the Perinthalmanna Police and Crime No. 21/2016 was registered initially u/s 57 of the Kerala Police Act and the Sections were subsequently altered u/s 153A, 295A and 107 I.P.C. and the police arrested the above mentioned Aboobacker and he remained in remand for a few days and his

daughters were questioned but before their arrest they sought Anticipatory Bail from the Sessions Court, Manjeri. All of them cunningly suppressed to the police the whereabouts of the detainee, after handing over her to SDPI/PFI activities and told a cock and bull story to the police and the detainee could not be traced out by the police as she was kept in a safe haven of the 6<sup>th</sup> respondent organization. Thereafter the petitioner was compelled to file W.P.(Crl.) 25/2016 before this Hon'ble Court, citing Aboobacker and his two daughters as the party respondents. But alas, the detainee was produced clad in a black burqa before the Court on 19.01.2016, by the 7<sup>th</sup> respondent, a black burqa clad Muslim Woman, a total stranger to the detainee and the petitioner, accompanied by a horde of fearsome, burly Islamic style bearded SDPI/PFI Activities. Evidently the detainee was handed over to them by the above said Aboobacker and his daughters, who had detained her initially as a well planned strategy to keep her under intimidation and treat round the clock. The



detenue was not a free agent when she was produced by them before this Court and under their threat, coercion and instructions, she was forbidden to express her wish to go along with the petitioner and instead, in a tutored, mechanical manner, against her free will and wish, parroted in the Court what was commanded to her by her captors and unwillingly stated in the Court that she did not want to go to her parental home but to the 6<sup>th</sup> respondent illegal conversion centre, along with the 7<sup>th</sup> respondent. The detenue had even refused to talk to her parents while in Court, under the threat and forbiddance of the intimidating and cruel looking SDPI/PFI Activities, who had brought her to the Court. The true copy of the interim order dated 19.01.2016 and the Judgment dated 25.01.2016 of this Hon'ble Court in W.P.(Crl.) 25/2016 are produced herewith and marked as Exhibit-P2 and Exhibit-P3.

4. The detenue still remains in the 6<sup>th</sup> respondent, under the tentacles of SDPI/PFI activities and the



7<sup>th</sup> respondent, in a terrorizing atmosphere. The detainee, who refused to talk to her parents while in Court, under the forbiddance of the SDPI/PFI activities, began to phone the petitioner on a daily basis, after she was taken back to the 6<sup>th</sup> respondent, evidently under the instruction of her custodians, and as instructed by them, she always tries to induce her parents to convert to Islam. Evidently her custodians are misusing/exploiting her as a hostage to secure the conversion of her parents also. She had called the petitioner on 11.7.2016 from mobile No. 9446544471 and during her conversation on that day she had inadvertently disclosed to him that 'she had a plan to go to Syria for sheep rearing' and that conversion could not be recorded on that day, but on 12.07.2016 the same subject was discussed with her by the petitioner and she repeated the same and that conversion was recorded by him, and he is prepared to produce the CD containing that recorded conversation before this Hon'ble Court. Even from her talk, it could be inferred that

she was trying to suppress more than what she revealed. Taking new converts to Syria for terrorist training and to join the ISIS, in the pretext of sheep rearing is a well known tactics of the Islamic extremist organizations of Kerala and bumerous Hindu/Christian converts to Islam, both male and female from Padanna (Kasargod), Palakkad, Thammanam, Ernakulam and Thiruvananthapuram were secretly transported by them to Syria recently to join the despicable and devilish 'Islamic state of Iraq and Syria' (ISIS). Evidently, the persons who are having the control and the custody of the detenue now, had a definite plan to traffic her away to Syria for terrorist training, to join ISIS and to make her a female suicide bomber. During her talks with the petitioner, she used to express "her inability under the compulsion of the circumstances to come and reside for few days with the petitioner", evidently under the pressure, threat and injunctions of the persons who are having control and custody of her now. The petitioner gathers from the conversation



with the detainee, that she wants to go and reside with her parents at her parental home but she was forbidden from it by her present custodians, as they want use her as bait to secure the conversion of her parents also, cruelty exploiting the parental weakness/soft corner of them, towards the only fruit of their tie. Mercilessly denying her right, freedom and liberty to visit her beloved parents is nothing but the denial of her human rights. She is being forced to continue to reside there, against her free will and wish under threat and intimidation. In fact she is detained there as a hostage/captive (taking non-Muslims as hostages and demanding conversion of them or ransom for their release is permitted to Muslims under Quram 9:5 & 47:4). Moreover, some hostages/captives develop a curious psychological, disorder, psychiatrically termed as 'Stockholm Syndrome' which strangely compels them to have some unnatural and unreal affinity towards their captors. One of the infamous victims of "Stockholm Syndrome" is Ms. Yvonne Ridley, the



British journalist who was captured by the dreaded Taliban of Afghanistan in 2001, kept as a hostage/captive for long and was gang raped repeatedly by them for many years. But after her forcible conversion to Islam by her captors and her subsequent release, as an irony and enigma, she transformed into a fanatic Muslim and a worldwide preacher of the same "Religion of Peace", the religion of her captors, tormentors and rapists. The detainee also, might be in a similar psychological condition as Ms. Ridley, as she has been a hostage/captive under the 6<sup>th</sup> respondent institution from 6.1.2016 and her continued residence there in fact amounts to illegal detention against her free will and wish, as she is not at all a free agent under their intimidating custody. Moreover, the respondents 6 and 7 must have threatened her with the punishment of beheading, if she ever tries to renounce Islam, as the Islamic Sharia Law Commands all Muslims to kill apostates and capital punishment for converts is based on the following Hadith of Mohammed, the

Rasul of Muslims:- 'Whoever change his religion (Islam), then kill him' (Sahih Bukhari-9-6922, 9 page 46, Darussalam books, Medina, Saudi Arabia), Sahih Muslim 4152-4155, 4130-4135, Sunna An-Nasai 4021-4024, 4020-4041, 4053, 4062-4069, Musnad Ahmed ibn Hanbal 2966, 1871, 2551, 2552, Sunanibn Majah 3-2535, page 452). Awarding the capital punishment of Beheading for the apostates from Islam, is an integral part of the penal code (Sharia) of all the Islamic countries, based on the above mentioned Hadith of Mohammed. The Freedom to choose any other religion is denied to all Muslims by Islam and the Universal Declaration of Human Rights of the "United Nations Organisation" is not at all applicable in Muslim countries. At the same time, strangely, the Muslims, all over the world do not want non Muslims to behead their co-religionists, if they convert to Islam-in such cases they demand the freedom for them to convert to Islam. This is one of the classic example of the Islamic double standards of the Muslims. The greatest living



Islamic scholar, Yusuf al-Qaradawi, the President of the "Global Association of Islamic Scholars" candidly confessed in Al-jazeera TV that "Had the punishment of beheading Muslims for the offence of apostasy, been not there in Islam, Islam would not have existed today" (Wikipedia-Yusuf al-Quaradawi). That candid admission is the reason for the custodians of the detainee, threatening her with beheading, is she renounces Islam. They are dead sure that, if the detainee is permitted to visit her parents and reside at her parental home, she would discard forever her misguided/mistaken inclination towards Islam-hence they deny the basic human right of the detainee to visit her parents and enjoy their unbounded love and affection. Once the fear of beheading is instilled into the heart of the detainee, she, being a fragile girl both mentally and physically, is not expected to express her real will and wish, being under the intimidating detention of her present custodians, who strictly want to execute the commandments of their beloved Rasul, mentioned above. Moreover,



the videos of the gruesome beheadings of non-Muslims for the sole offence of being non-Muslims, widely carried out by the ISIS in Syria and Iraq, Arabia, Europe, America, Bangladesh and Africa, Taliban and Al-Qaeda in Afghanistan and Pakistan, Boko Haram in Nigeria, Al-shahab in Somalia and scores of other extremist Islamic organizations all over the world are shown to all the new converts/students of Islam like the detenue, and all the new converts like the detenue are forced to watch the live demonstrations of beheading dogs and cows in all the Islamic conversion centers, in order to terrorize them, in order to make them succumb to the whims and fancies of their custodians. They are taught the heroic deeds of the converted Mappilas of Malabar who had butchered thousands of hapless Hindus by beheading in the notorious "Mappila Rebellion" in 1921 for having committed the offence of rejecting Islam and for remaining as Hindus. Naturally, weak, foolish and fragile girls like the detenue are terrorized by all these gruesome

actions and teachings and naturally disabled to express their free will and wish to renounce Islam and leave with institutions and to go back to their non-Muslim parents. The recent incidents of Muslim sons killing their own mothers in Syria and Saudi Arabia for having advised them to leave ISIS, are also shown and taught as exemplary models to the new converts in all the conversion centers of Kerala as well as the entire world.

5. So many Hindus/Christians, both male and female, converted to Islam were deceptively taken away to Syria and Yemen from Kerala recently and the Kerala police have registered many crimes under U.A.P.A. against many persons involved in it and some of the Islamic preachers including preachers connected with the organization of Mr. Zakir Naik were arrested from Bombay and Bihar and they are being subjected to custodial interrogation by the police and the 5<sup>th</sup> respondent.
6. The petitioner genuinely apprehends that the detenue would also be taken away to Syria shortly



for terrorist training and to join ISIS under the false pretext of taking her for sheep rearing there. Until 6.1.2016 she had not obtained Indian passport; but now she had secured a passport under the instructions of the respondents 6 & 7 and others who had planned to take her away to Syria. The detainee, a person who was forced to mercilessly discard her beloved parents for them being Hindus, after her inclination to Islam, which teaches new converts not to take their Hindu parents, brothers, sons, daughters and the near kin as their guardians, protectors and friends under Quram 9:23, 58:22, 60:4 and under the commands of Allah to Muslims "not to pray for the souls of even their Hindu parents, in the event of their death and not to stand even near the graves of them" under Quram 9:113, 9:84 and 9:80 injected into her brain by her evil custodians, would not definitely hesitate to become a traitor to the nation and participate in the unholy Jihad against the entire non-Muslims of the world under their instigation and compulsion. It is easier for a



persons who was forced to discard her parents on the teachings of her new faith, to discard the Motherland and turn to be traitor to the nation under compulsion. Numerous national and international Islamic organizations had vowed to destroy the incredible India, in its entirety. She should not be permitted to be a pawn in the hands of anti-national elements. Lord Krishna had replied that 'the severest sorrow of the mankind is the untimely loss of their children', when asked 'what was the severest sorrow of the mankind. The petitioner and his poor wife are experiencing the excruciating pain and agony and are totally shattered mentally and physically by the loss of their only child. But, the petitioner, who, as a soldier, who was prepared to sacrifice his precious life for safeguarding the borders of his motherland, in order to protect and safeguard the peaceful lives of its 125 core citizens, could not comprehend the ultra tragic situation in which his beloved daughter turns into a Islamic democratic and secular India and to make it a fascist Islamic nation, having

strict Sharia laws in which all non-Muslims would be butchered-ISIS style if they do not convert to Islam.

7. Apprehensive about the terrible situation in which the detinue has been inadvertently and imprudently entangled, the petitioner had filed petitions before the Chief Minister of Kerala, the respondents 2 to 4 on 13.7.2016 praying them to order investigation into the matter and to save his daughter from the terrorist elements who had planned to take her away to Syria but unfortunately, no effective actions are initiated by them so far and the true copy of the said petition dated 13.7.2016 is produced herewith and marked as Exhibit-P4. Highly aggrieved by the action by the Chief Minister and the respondents 2 to 4 the petitioner submitted another petition before the 5<sup>th</sup> respondent on 11.08.2016 praying to take immediate action to prevent the detinue from being trafficked away to Syria and the true copy of the said petition dated 11.8.2016 is produced

herewith and marked as Exhibit-P5. Every passing day is very crucial in this matter and the 5<sup>th</sup> respondent has not yet taken any concrete steps to prevent the detainee from being taken out of the country to join the dreaded ISIS.

8. A couple of days back the detainee had inadvertently disclosed to the petitioner that there is a concerted hasty efforts going on in the 6<sup>th</sup> respondent institution, after being aware of the Ext.P4 petition submitted to the respondents 2 to 4, to conduct a fake marriage of the detainee, without her consent and free will to a Muslim urchin of Manjeir, who is also associated with an extremist Islamic organization in order to hookwink the police and the NIA from their stated plan to traffic her to Syria to join the ISIS by awaiting for the right time to take her out to Syria, when the attention of the security agencies fade away and divert after her fake marriage.

In the above circumstances the petitioner has no other remedy than to approach this Hon'ble



Court under Article 226 of the Constitution of India  
on the following among other:-

GROUNDS

- A. The recorded conversation of the detainee reveals that there was a definite plan to take the detainee out of the country to join ISIS in the pretext of sheep rearing. Such a plan could not have been devised by the detainee, a hapless, foolish and imprudent girl. Definitely, the persons having control and custody of her now, must have devised such a plan. In her recorded conversation, she could be hard saying that she had a plan to go to Syria for sheep rearing but that plan was later dropped. It is submitted that she talked about the dropping of the plan on 11.07.2016 and 12.07.2016, after the police and the NIA detected that numerous Hindus and Christians recently converted to Islam such as the two Christian brothers Benston now Yahia and Beckson now Isa from Palakkad and their spouses Merin Jacob now Mariam of Thammanam and Nimisha now Fathima

of Thiruvananthapuram and Sonia Sebastian Now Aisha of Ernakulam enticed, trapped and taken away secretly to Syria to join ISIS was revealed by the whole media on 08.07.2016. Evidently the plan to take away the detainee to Syria was tentatively is kept in abeyance by the conspirators, after the State Police and the NIA started criminal investigations and registered many cases against many persons involved in trafficking all those newly converts to Syria. A couple of months back an engineering graduate and a chronic cardiac patient from birth one Hindi Ezhava youth named Akhil S/o Subramanian, Athira Nivas, Thattarakkad, Angadippuram, Perinthalmanna was like wise trapped to Islam by deceit (by the same conversion Mafia involved in the case of the detainee in this case and in the attempt to convert the detainee in W.P.9CrI.) 235/2016 also, after she was abducted for conversion) converted to Islam, adopted the name of Abdulla and later he was secretly trafficked to Yemen, now under the control of Islamic terrorists and the police and NIA



confirmed his presence in a terrorist camp in Yemen. Likewise there is every chance that the detainee would also be taken away by the respondents 6 & 7 and others any moment, if she is not released from her illegal detention of the 6<sup>th</sup> respondent. The detainee, being the daughter of a proud soldier was a steadfast patriot before she was induced to have misguided inclination towards Islam and before forced to join the 6<sup>th</sup> respondent conversion center. Being the only child of a soldier, who was prepared to lay down his life for the protection of Mother India, the detainee would not definitely become a traitor and menace to the nation by her own free will and wish. So her plan to go to Syria to join ISIS was hatched and devised by her present custodians and being a hapless hostage of them, she is not in a position to defy their plans and escape from it. Though petitions were filed before the respondents 2 to 5, they have miserably failed to take any concrete action in this regard to save the detainee from her illegal detention at the 6<sup>th</sup> respondent, against her free



will and wish. The respondents 1 to 5 ought to have taken instant action to prevent the detainee from being trafficked to Syria to join the ISIS. Their non-action is unjustified, illegal and arbitrary.

- B. It may kindly be reminded that scores of Muslim youths of Kerala were recruited and taken to Kashmir to fight against India's own Army in 2008 by the radicalized Muslims terrorists of Kerala and were deservingly shot dead and sent to hell by the Army and one of the youths so killed in that incident included one Varghese Joseph of Thammanam, who was induced and converted to Islam and adopted the name of Mohammed Yasin. Ms. Deepa Cherian of Pathanamthitta, a home maker, was enticed and converted to Islam by one Noushad, a much married Muslim driver and after her marriage to him as his step-in wife, she landed in Jail for having forced to take part in terrorist activities and committed the crime of secretly handing over mobile SIM cards to the jailed dreaded and convicted Indian Mujahideenb

terrorist Thadiyantevida Nazir, in order to enable him to coordinate his terrorist activities all over India from the four walls of the jail.

- C. It is submitted that hundred of Hindu/Christian girls are being detained at the 6<sup>th</sup> respondent institution in the false and deceptive pretext of "studying Islam" and the detenue is one of the unfortunate and tragic victims. The petitioner suspects that his innocent daughter is being subjected to gang rape in the 6<sup>th</sup> respondent institution, with the active connivance of the 7<sup>th</sup> respondent, as is done by the ISIS in Syria and Iraq against the hapless kafir girls and women. Sexual intercourse with captive girls in addition to four wives is permitted to Muslims under 4:3, 23:6, 7 33:50,52, 70:29,30 of Quran. Even raping captured married woman as is done by the ISIS is permitted under Quran 4:24 and Harith Sahih Bukhari 3-46-718, 9-93-506, Sahih Muslim 3432, to 3434, 3371 Sunan A-Nasaj 3335, Jami Tirmidhi 3016, 3017, 1132 etc. The petitioner also

apprehends that his beloved daughter would be forced into flesh trade. Even the disgusting act of prostituting captives / slaves for monetary gain is expressly not prohibited in Islam rather condoned it with a condition under 24:33 of Quran and Wadith.

- D. The respondents 1 to 5 have not yet fully comprehended the grave threat posed to the nation by the 6<sup>th</sup> respondent, which detains hundreds of alleged Hindu/Christian converts to Islam and they are being indoctrinated to hate all the Kafirs of the world and being indoctrinated to the urgent need to wage unholy Jihad against them. All of them are being instilled the extreme hatred of non-Muslims and are also being mentally prepared to wage unholy war against India, an infidel Darul-harb country (country of enemies of Islam) quoting numerous verses of Quran such as the 'verses of sword' i.e, 9:5, 9:29, 9:123, 47:4, 5:33, 8:12 and numerous Hadith of Mohammed such 'I have been commanded by Allah to fight people (non-muslims)



until they become Muslims' (Sahib Bukhari 1-2-24, 4-52-196, Sahih Muslim 29-35, Ibn Majah 3929, Abu Dawad 2635, 2642, Nasai 3971, 3972) and 'I have been ordered to fight the idolators/polytheists (people like Hindus)' Abu Dawad 2-2642, to fight the non-Muslims and they are also taught to kill and get killed in Jihad under 9:111 of Quran. They are also taught that 'Allah is the enemy of Kafirs' under 2:98, 8:60, 41:19, 28, 52, 60:1 and they are also taught that the "Kafirs are the open enemies of Muslims' under 4:101, 60:1 and 8:60 of Quran. They are also taught that 'the worst of created beings in the eyes of Allah are the Jews, Christians and the idolators (Hindus) under 98:6 of Quran' and 'the worst of beasts in Allah's sight are the ungrateful Kafirs' (Quran 8:55). The devilish motive of the respondents 6 & 7 in keeping the detainee under their prolonged illegal detention even after the alleged studies in Islam is to make her a pawn in the hands of the Islamic terrorist organizations, national and international, bent upon destroying the incredible India.

D. The detainee was produced before this Hon'ble Court clad in black burqa on 19.01.2016 in W.P. (Crl.) 25/2016 by the 7<sup>th</sup> respondent, a total stranger to her, who strangely, was not a party in the writ petition. In W.P.(Crl.) 131/2016, in a similar case, the detainee in that case Ms. Aparana Vijayan was also produced before this Hon'ble Court clad in black burqa by a another Muslim woman named Sumayya, W/o Ziyad J. Thaliaparambil, House No. XX/685-B, Kacheripady, Palluruthy, who was also not a party in that writ petition. In W.P. (Crl.) 235/2016, in another similar case, the detainee in that case was also produced before this Hon'ble Court clad in a black burqa by another Muslim woman named Sheena Farzana, W/o Mujeeb Rahman, Chettianthodi House, Paramboor Palliparambu, Pattikad P.O., Malappuram District, who was also not a party in that writ petition. All those Muslim women were hard core activities of SDPI/PFI and Sheena Farzana had contested to the total body



elections as a SDPI candidate. All those women who had produced the above mentioned detenue before this Hon'ble Court, were accompanied by the same set of (Illegible) on the above mentioned organizations and even the counsel appeared for all those detenues were the one and the same person. Moreover, it is very pertinent to note that in all those cases the party respondents, cited in the writ petitions had never appeared before the Court nor produced the detenues before it but instead the detenues were handed over to those Muslim women and their henchmen, strangers to the detenues before their disappearance and all the detenues had also filed similar notary attested affidavits and similar petitions and affidavits before this Hon'ble Court stating they had sought refuge under those black burqa clad women and they wanted to remain with them in their houses. All those detenues had also produced copies of similar letters allegedly written to their parents and the police. All those detenues had also filed similar writ petitioner/petitions seeking police protection for



them and for their burqa clad companies and also sought relief from police harassment. All those detenues except the detinue in W.P.(Crl.) 235/2016 ended up in the 6<sup>th</sup> respondent institutions. The detinue in W.P.9Crl./) 235/2016 who was forced to express her wish to go with the stranger woman was not permitted to it by this Hon'ble Court and she was put up in a hostel, after she refused to go with her parents. But alas, that after 20 days of her sojourn in the hostel, away from the hawkish eyes, intimidating presence of fearsome Islamic style bearded persons of the 6<sup>th</sup> respondent institution and also after being assured of her total safety and protection by her relations and the law enforcing agencies, she had a change of mind and she gladly opted to go with their parents on 27.07.2016 after having thrown away the hated burqa. It is submitted that the burqa clad woman Sheena Farzana, who produced the detinue in W.P.(Crl.) 235/2016 is arrested now for the offences u/s 365, 344 I.P.C along with one Nazar who had also accompanied the detinue to

this Hon'ble Court on 05.07.2016, 07.07.2016, 21.07.2016 and on 27.07.2016 for kidnapping with intention of secretly and wrongfully confirming that unfortunate detainee. Had the detainee in this writ petition been granted a sojourn in a hostel, away from the threatening/intimidating atmosphere of the 6<sup>th</sup> respondent and had a chance to be assured of her total safety and protection if she discarded ~~the~~ 6<sup>th</sup> respondent institution by her relations and the law enforcing agencies, while she was produced before this Hon'ble Court in W.P.(Crl.) 25/2016, she would definitely have gladly opted to go along with her beloved parents.

- E. All the strange incidents mentioned above in which totally stranger women, who were not parties in those writ petitions, producing the detainee before this Hon'ble Court, instead by the party respondents, are not a coincidence but a pre-planned concerted conspiracy to hoodwink this Hon'ble Court and to convert those simpleton, gullible and hapless non-Muslims girls to Islam by



inducement, misguidance, threat, brainwash, blackmail and compulsion. Sri V.S. Achbuthanandan, while he was the Chief Minister of Kerala had categorically stated in Delhi on 26.07.2010 that there is 'the concerted efforts by the fundamentalist organizations like the popular Front of India to convert the State of Kerala into a Muslim majority country within 20 years, by large scale conversions of youths (Hindu and Christian) in the disguise of love and by the inducement of money'. Detaining hundred of Hindu/Christian girls and women like the detinue in the 6<sup>th</sup> respondent institutions run by the organization specifically mentioned by the former Chief Minister and the Senior most politician of the State, is clearly a part of the concerted effort to totally Islamize the state within the time specified by him. Sri Kodyeri Balakrishnan, the then Home Minister of the State of Kerala, also wrote an article in the leading dailies of the State Mathrubhumi and Deshabhimani on 21.07.2010 about the 'evil



converted efforts to convert Kerala into Muslim majority country shortly.'

- F. The website of the 6<sup>th</sup> respondent itself audaciously boasts that the percentage of Muslims in India is much less and the need to drastically increase it and for that purpose it has deputed 400 fulltime trained volunteers specifically to facilitate large scale conversion of non-Muslims to Islam under the inducement of employment, housing and resettlement. This 6<sup>th</sup> respondent is an illegal conversion centre without any valid permission from the State Government. The State Government has only granted permission two institutions such as the Mounathul Islam Sabha, Ponnani and Tarbiyatul Islam Sabha, Kozhikkode to convert people to Islam and to issue conversion certificates and the true copy of the G.O. (Ms) No. 75/2004/SC/STDD issued by the Government of Kerala Dated 30.10.2004 showing that the 6<sup>th</sup> respondent is an illegal conversion centre is produced here with and marked as Exhibit P6.

Hence conducting an illegal conversion centre by the 6<sup>th</sup> respondent is an open challenge to the rule of law. It is also submitted that the Muslim minority communities in all the civilized nations of Europe and America have openly declared Jihad against the Christian majority communities of that continents, who had granted them asylum, employment, better housing, living conditions and unemployment welfare to the Muslim minorities who had arrived there as beggars and vagabonds. Those large hearted white men are being butchered by them by scores for their foolishness of admitting those fanatics into their country. The same tragedy of the Europeans and Americans is being replicated in India also. The entire Hindu population from the Kashmir Valley is either expelled or butchered by the Islamic Terrorist and wants to implement it all over India.

- G. This Hon'ble Court had categorically found in Shahansha and another vs. State of Kerala (1010(1) KHC 121, 2010(1) KLD 20 and ILR

2010(1) Ker 296 that there is a concerted efforts to convert non-Muslim girls to Islam in the form of 'love Jihad' also in order to disproportionately multiply the Muslim population of the country.

- H. This Hon'ble Court in Sreekesh Vs. Mohammed Ashraf (2003(1) KLT 397), Shahansha and another Vs. State of Kerala (2010(1) KHC 121, 2010(1) KLD 20 and ILR 2010(1) Ker 296, Prasad Kumar vs. Raveendran (1192(1) KLT 729), Lal Parameswar Vs. Ullas (2014(1) KLT 937) upheld the principle that the rights of the parents of major girl children to control their wards when they have taken wrong and immature, disastrous, decisions. This Court also held that simply because of a girl become major does not mean that the parents have no say in the matters of their future and career and the parents are entitled to protect their children. This Hon'ble Court also held that it is the responsibility of the parents to see that their daughters are not cheated. This Hon'ble Court also held that the parents are the proper persons to take decisions



concerning the career and future of their daughters and parents will be entitled to have control over their children especially daughters, to protect them from vagaries of their immature minds. All the above cited decisions cement that the petitioner is entitled to have the control and custody of his daughter, the detenue.

- I. The famous American Historian will Durant in his classic 'The story of civilization' had recorded subtitled 'the Muslim conquest-the lesson of Indian History' that "The Mohammedan conquest of India is probably the bloodiest story in History. It is discouraging tale, for its evident morale is that civilization is a precarious thing, whose delicate complex of order and liberty, culture and peace may at any time be overthrown by barbarians invading from without or multiplying within ..... The bitter lesson that may be drawn from this tragedy is that eternal vigilance is the price of civilizations. A nation must love peace, but keep its powder ready. His prophecy

about this great nation has proved true. All the constitutional institutions of this great country like the governments, legislatures, judiciary, defense forces, security agencies, Intelligence agencies and the police have to be vigilant against the barbaric inimical forces vowed to destroy the nation by destroying its first nation people, from within and without.

For these and other grounds to be urged at the time of hearing, it is most humbly prayed that this Hon'ble Court may be pleased to

PRAYER

- i) issue a writ of habeas corpus directing respondents 1 to 5 to produce the detinue before this Hon'ble Court as expeditiously as possible and this Hon'ble Court may kindly be pleased to accommodate her in any government institution for women, if she is unwilling to go along with the petitioner;

- ii) issue any order, direction this Hon'ble Court deems fit and proper in the nature and circumstances of the case.

Dated this the 16<sup>th</sup> day of August, 2016.

C.K. MOHANAN  
Counsel for the Petitioner

PETITIONER

INTERIM - RELIEF

For the reasons stated in the Writ Petition (Crl.) and the reasons urged at the time of hearing, it is most humbly prayed that this Hon'ble Court may be pleased to direct the respondents 1 to 5 to produce the detenue before this Hon'ble Court and this Hon'ble Court may kindly be pleased to hand her over to the paternal custody and control of the petitioner, as an interim measure, pending disposal of this writ petition (Crl.).

Dated this the 16<sup>th</sup> day of August, 2016.

C.K. MOHANAN  
Counsel for the Petitioner

PETITIONER

**//TRUE COPY//**



## IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP (CrL.) No.297/2016(S)

(Habeas Corpus)

PETITIONER

ASOKAN K.M. , S/O MANI, AGED  
56, KARATTU HOUSE, (DEVI KRIPA)  
T.V.PURAM POST, VAIKOM,  
KOTTAYAM DISTRICT, KERALA.

RESPONDENTS

1. THE SUPERINTENDENT OF  
POLICE, MALAPPURAM DIST.  
PIN-679001.
2. THE SUPERINTENDENT OF  
POLICE, KOTTAYAM DIST. PIN-  
689001.
3. INSPECTOR GENERAL. OF  
POLICE, ERNAKULAM  
RANGE, KOCHI, PIN-682031.
4. THE DIRECTOR GENERAL OF  
POLICE (LAW & ORDER),  
POLICE HEAD QUARTERS,  
TRIVANDRUM-695001.
5. NATIONAL INVESTIGATION  
AGENCY, REPRESENTED BY  
THE SUPERINTENDENT OF  
POLICE (NIA), NO.28/443, 4TH

CORSS, GIRI NAGAR,  
KADAVANTHRA, KOCHI, PIN-  
682016. THROUGH SPECIAL  
PUBLIC PROSECUTOR, (NIA),  
HIGH COURT OF KERALA,  
ERNAKULAM.

6. MARKAZUL HIDAYA,  
SATHYASARANI EDUCATIONAL  
& CHARITABLE TRUST,  
KARUVAMBRAM P.O.,  
MANJERI, MALAPPURAM  
DISTRICT, PIN-676123,  
REPRESENTED BY ITS  
MANAGER.

7. SAINABA A. S., SRAMBIKCAL  
HOUSE, PUTHOOR P.O.,  
KOTTACKAL, MALAPPURAM  
DISTRICT-679124.

The Honourable Mr. Justice K. SURENDRA MOHAN  
and the Honourable Mrs. Justice MARY JOSEPH upon  
hearing Advocate SRI. ABU MATHEW, for the  
petitioner and upon reading the affidavit of  
ASOKAN K.M. , S/O MANI, AGED 56, KARATTU  
HOUSE, (DEVI KRIPA), T.V.PURAM POST, VAIKOM,  
KOTTAYAM DISTRICT, filed herein:

Let all parties concerned attend the High Court of Kerala (Court 2-A) on Monday the 22<sup>nd</sup> day of August 2016 at 10.15.a.m. to show cause why a writ of Habeas corpus should not issue directed to:

R6 MARKAZUL HIDAYA,  
SATHYASARANI EDUCATIONAL &  
CHARITABLE TRUST,  
KARUVAMBRAM P.O., MANJERI,  
MALAPPURAM DISTRICT, PIN-  
676123, REPRESENTED BY ITS  
MANAGER.

R7. SAINABA A. S., SRAMBIKCAL  
HOUSE,  
PUTHOOR P.O., KOTTACKAL,  
MALAPPURAM DISTRICT-679124.

to have the body of Ms.Akhila, aged 23 years,D/o.  
petitioner before the Kerala High Court, Ernakulam  
immediately after the receipt of such writ to undergo  
and receive all and singular such matters and things as  
the said court shall then and there consider of  
concerning her in this behalf.

Dated this the 17<sup>th</sup> day of August 2016.

(By Order)

Encl: Copy of WP.(Crl)  
Mls/3

Deputy Registrar



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Annexure P-13

K. SURENDRA MOHAN & MARY JOSEPH, JJ.

W.P. (Crl.) No. 297 Of 2016 Dated this the  
22<sup>nd</sup> day of August, 2016.

ORDER

Surendra Mohan, J.

After we had passed our earlier order today, the detenue has come to Court accompanied by the 7<sup>th</sup> respondent. On the request of the Additional Director General of Prosecutions and the counsel for the petitioner, we have taken up the case again. This order is passed in modification of our earlier order passed today.

2. The detenue is represented through her counsel Adv. P. Sanjay. We have interacted with the detenue and also with her parents, who are present. The detenue maintains that she is aged 24 years, that she is a person who has completed her BHMS Course and is about to commence her House Surgency Course. According to her, she came under the influence of the Muslim religion,

having heard of the teachings thereof from her room mates. Being attracted to the tenets of the religion, she wanted to embrace Islam religion. In order to study more about the religion, she had joined an Organization called Satya Sarani and was an inmate therein, undergoing a course of two months duration. She has completed the Course and claims to have become a Muslim by conversion. She does not want to accompany her parents home. Though we permitted her parents to interact with her in our presence, she refused to accompany them. According to her, the 7<sup>th</sup> respondent is her guardian and she has been residing with her at her house. Her husband and two children also reside in the said house at Kottakkal.

3. Her main objection is that, her parents do not accept her as a devout Muslim. Her parents pleaded with her in our presence to accompany them, assuring that they have accepted her in her present condition. But, she refused to accompany them.

4. In view of the allegations contained in the writ petition, we are not satisfied that the detenue should be allowed to accompany the 7<sup>th</sup> respondent today. This is for the reason that, according to the Police, she had been missing for the past one month. It is therefore necessary to await further inputs before any final decision could be taken in the matter.
5. In view of the above, the Circle Inspector of Police, Nilambur along with the Woman Police Constable, who is present in Court, is directed to escort the detenue to the SNV Sadanam Hostel, Ernakulam where she shall be accommodated until the next date of posting. The expenses for her stay at the Hostel shall be met by the petitioner. The petitioner and the mother of the detenue are permitted to meet her and interact with her subject to the Rules and Regulations of the Hostel. No other person shall be permitted to meet or interact with her. She



shall not be permitted to have a mobile phone or to use the same.

6. The Addl. D.G.P. submits that, the Dy. S.P., Perinthalmanna is in charge of the investigation. The Investigating Officer shall probe the antecedents of respondents 6 and 7. The Investigating Officer shall also verify whether the detenue has been issued with a Passport and shall thoroughly investigate all the relevant aspects of the case, including the allegations made in this petition. The report of the further investigation shall be made available to us within a period of ten days from today.

Post on 1.9.2016. The detenue shall be produced on that day.

MOHAN

Sd/-K. SURENDRA  
JUDGE

Sd/-MARYJOSEPH  
JUDGE

//true copy//

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**Annexure P-14**

BEFORE THE HONOURABLE HIGH COURT OF KERALA  
AT ERNAKULAM

W.P. (Crl.) No. 297 of 2016

Asokan K.M

..Petitioner

Vs.

The Superintendent of Police

and others

.... Respondents

COUNTER AFFIDAVIT FILED BY THE 7<sup>th</sup> RESPONDENT

I Sainaba A.S. aged 43 w/o of Aliyar S.A. residing at Srambickal House, Puthur P.O Arichol, Malappuram District do hereby solemnly affirm and state as follows :

1. I am the 7<sup>th</sup> respondent in the above writ petition. I deny all the averment and contentions raised in the writ petition against me save those specifically admitted here under.

2. At the outset I submit that the above writ petition is an abuse to the process of the court. It is frivolous, vexatious and intended to malign me and the religion to which I belong. The writ petition is not maintainable either in law or on facts and hence deserve to be dismissed with compensatory cost, being one filed with reckless statements indented to outrage my religious feelings and belief and religious hatred.
3. I am a citizen of India and permanent resident of Othukungal Gram Panchayat, in Malappuram District. I am married and live with my family consisting of my husband and two children.
4. I completed my pre-degree from Mar Athnecious College/Kothamangalam and qualified Eng. Diploma in Electronics from Government Polytechnic, Chelad. I attended many counseling courses of different duration from recognized institutions such as International Transactional Analysis Association, Coimbatore, Institute for counseling and Transactional Analysis at



Changampuzha Nagar, Kochi etc. True copies of the certificates issued by International Transactional Analysis Association and Institute for counseling and Transactional Analysis are produced here with and marked for reference as Exhibit R7(a) and (b) respectively.

5. I am in the field of carrier guidance and counseling since 2009 onwards. I am a resource person for Advance Center for Carrier Education (ACCESS), an institute functioning at Kozhikode for counseling.
6. I am a social activist too and a teacher in Quraan and Hadeeths. I am the Chair Person of Gram Sabha of ward number 12 of Othukungal Gram Panchayat and a member of its working group. I am a paralegal volunteer of Kerala State Legal Services Authority since 2011. True copy of the identity card of KELSA is produced herewith and marked for reference as Exhibit- R7(c).

7. I am also a convener of the Social Reform Committee of the Kerala state constituted by the All India Muslim Personal Law Board. I am the President of the National Women's Front, an organization registered under Societies Registration Act and functioning since 2010. It is a non political organization having the following objectives:

- "1. To strive for the uplift of the women folk
- 2.To educate people about the social problems.
- 3.To protect the rights of women.
- 4.To work for intellectual and spiritual development of women
- 5.To strengthen family as the basic unit of society.
- 6.To help to grow children as helpful to the society.
- 7.To promote national integration, communal amity and social harmony.
- 8.To uphold the democracy and social justice in the country
- 9.To endeavour for the protection of cultural, social and religious values of minorities

10. To coordinate and unite various women organization all over India."

8. I am also the recipient of a certificate of appreciation for my over all service to public cause and common good by the Institute of Objective Studies New Delhi during its Silver Jubilee Celebrations in 2011. True copy of the certificate of appreciation of this Institute of Objective Studies is produced herewith and marked for reference as Exhibit-R7(d).

9. I am an ardent believer of Islam. It is an obligation of every Muslim to invite people to the fold of Islam with wisdom and fair preaching.

Allah, the Almighty says in the Qur'aan:

"Invite (all) to the Way of thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious for thy Lord knoweth best, who have strayed from His Path, and who receive guidance." (Al-Quraan-Chapter 16: verse 125)



10. Galling to Allah is an individual obligation of every Muslim. Conveying the message does not require a high level of scholarship. It is in fact a responsibility of each and every Muslim, according to his or her ability. The Prophet (Peace be upon him) has said: "Convey from me, even one verse." [al-Bukhaaree] The obligation is further emphasized from the following verses of Quraan explains that not conveying the message - hiding knowledge - is disobedience to Allah that causes Allah's curse to descend upon such people, which show that such a sin leads to the Hellfire.

"Verily, those who conceal the clear proofs, evidences and the guidance, which We have sent down, after We have made it clear for the people in the book, they are the ones cursed by Allah and cursed by the cursers." [al-Qur'aan, al-Baqara(2):<sup>^</sup>.59]

11. Inviting people to the way of Lord is one of the noblest acts that Quraan emphasizes:

"Who is better in speech than one who calls (men) to Allah, works righteousness, and says, "I am of those who bow in Islam"? (Al-Quraan-Ha-mim-41:33)

12. With regards to the reward, the Prophet (Peace be upon him) said:

"Whoever guides [another] to a good deed will get a reward similar to the one who performs it." [Saheeh Muslim]

"By Allah, if Allah were to guide one man through you it would be better for you than the best type of camels." [al-Bukhaaree, Muslim]

13. The petitioner in the writ petition has made a lot of allegations about Islam which of course is by the misconception that Islam orders that Muslims fight the world until everyone becomes Muslim. In Islam whether Muslim or Non Muslim, all are the children of Adam and Eve. Allah, the Almighty says in Quraan:

"O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things)." (Al-Quraan- Chapter 49 verse 13.)

12. The Messenger of God declared in his farewell sermon, while addressing the largest gathering in Arab history till that point.

"People, hear that your Lord is One, and that your father is one. You must know that no Arab has superiority over a non-Arab, no non-Arab has superiority over an Arab, or a red man over a black man, or a black man over a red, except in terms of what each person has of piety, "

13. God has also forbidden Muslims from speaking ill of the gods and deities worshipped by non-Muslims



so that they do not speak ill of the One, True God. God says in the Quraan:

"Do not revile those whom they call upon besides God, lest they revile God out of spite in their ignorance. Thus, We have made alluring to each people its own doings. In the end will they return to their Lord and He shall then tell them the truth of what they did." (Al Quraan Chapter 6 versel08)

14. The other allegation of the petitioner is that Islam compels people of other faith to convert to Islam. Islam does not compel people of other faiths to convert. This freedom is documented in both the Quraan and the prophetic teachings. Quraan says:

"If it had been your Lord's will, they would all have believed - all of who are on earth! Will you then compel humankind, against their will, to believe?" (Quraan Chapter 10 verse 99).

"Let there be no compulsion in religion; truth stands clear from error: whoever rejects false gods and believes in God has grasped the most trustworthy hand-hold that never breaks. And God hears and knows all things."

(Al Quraan Chapter 2 verse 256)

Allah, the Almighty says in the Quraan:

"Say, 'The truth is from your Lord,' let him who,,will, believe and let him who will, reject, it. For the wrongdoers We have prepared a Fire whose (smoke and flames are) like the wall and roof of a tent, will hem them in if they implore relief they will be granted water like molten brass that will scald their faces. How dreadful the drink! How uncomfortable a couch to recline on!" (Al Quraan Chapter 18 verse 29)

15. Allah, the Almighty requires Muslims to be just in all their affairs and to act equitably towards everyone. Allah says in Qifraan :

"And the sky He has raised; and He has set the Balance (of justice), that you may not exceed the (due) balance. But observe the measure strictly, nor fall short thereof." (Al Quraan Chapter 55verses 7-10)

16. Muslims are divinely ordained to act with justice, even if it means acting against themselves or those close to them, as the Holy Quraan states:

"O you who have believed, persistently stand firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is Ever-Acquainted with what you do." (Al Quraan Chapter 4 verse 135)

17. It is submitted that it is these verses of Holy Quraan and teachings of Prophet Mohammed that inspires me in life and therefore I consider it as my



duty to stand by somebody who seeks help for protecting her faith.

18. The alleged detenu appeared before this Hon'ble Court when a writ petition was filed by the petitioner in an earlier occasion as WP (Crl.) No. 25/2016. The detenu appearing before this Hon'ble court filed an affidavit seeking to get her impleaded as 9<sup>th</sup> respondent, a copy of the said affidavit and petition had served on the counsel of the petitioner. A true copy of the said affidavit and the petition dated 19.1.2016 is produced herewith and marked for reference as Exhibit-R7 (e). Further, as directed by this Hon'ble Court the alleged detenue also produced along with a memo documents in proof of her admission in the 6<sup>th</sup> respondent institution. True copy of the memo dated 25.1.2016 and the two documents namely, copy of the admission register and certificate of the 6<sup>th</sup> respondent are produced herewith and marked for reference as Exhibit-R7(f). These affidavit and documents of the detenu has been suppressed by the petitioner with oblique motive of misleading this Hon'ble Court

which would not have been possible with the production of the affidavit of the alleged detenu.

19. In Ext. R 7 (e) the alleged detenu Hadiya, (formerly Akila Asokan) has narrated the whole circumstances that compelled her to leave parental house. According to her she was following Islam for about 3 years without formally announcing her change of faith. According to her she went home to attend the funeral ceremony of her grandfather who died in November 2015. At Para 6 of Ext. P7 (e) she explains the circumstances of her resolution to formally announce Islam thus:

"My mother being an ardent believer in Hinduism wanted me to follow Hinduism. Therefore I was forced to keep my faith in Islam secret at least at home. While so, my Grandfather died in November 2015, when I was at Salem. I came home to attend the funeral ceremony. As per Hindu custom, my father being the eldest son was to perform the "Bali" but being a agnostic (typed wrongly as

agonist), he did not do that and kept away from all such rituals. The other relatives participated. I also kept away from such rituals. The other relatives participated. I also kept away from such ceremonies in the 1<sup>st</sup> day but in the 2<sup>nd</sup> day the relatives forced me to participate in the Bali and I had to oblige them. This incident has caused deep mental agony being a Muslim and I resolved to become Muslim lest in future also I may have to involve in such rituals which are prohibited in Islam."

7. Therefore I left home on 2.1.2016 with a resolution to accept Islam and I directly went to my friend Jaseena instead of going to Salem. I have explained to Jaseena the ordeal of performing Bali against my faith and sought her help to become Muslim officially. Jaseena informed her father Mr. Aboobacker and he promised to



get me admitted in some institution having special courses for converts to Islam."

20. It is submitted that the aforesaid Aboobecker approached various institutions to admit the alleged detenu and the sixth respondent is one of such institutions for admitting the alleged detenu in their hostel for Islamic course. According to Hadiya, on 4.1.2016, the aforesaid Aboobecker took her to Sathyasarani at about 8 p.m but the officials at Sathyasarani "informed that the concerned person for admission is not available and advised them to report after 2 days with a notarized affidavit". According to her she stayed with Aboobecker from 2.1.2016 to 4.1.2016.

21. It is submitted that Hadiya informed the sixth respondent that she would like to get admitted in their institution on 7.1.2016 and that she would be available at her friend Jaseena's house and that since Jaseena's father is no more agreeable to do any help for admitting her in Sathyasarani, she requested the 6<sup>th</sup> respondent to sent somebody to

the house of Jaseena to pick her up as she is not familiar of the route to the institution.

23. It is respectfully submitted that the sixth respondent an institution with which I have been associated for some time in teaching Quraan and Hadeeths and also for counseling at times, called me on 7.1.2016 and asked me whether I can do a help to them. The sixth respondent informed that there is a girl of 24 years studying in BHMS course at Shivraj Homoeopathy Medical College , Salem who wants to take admission for an Islamic course in Sathya sarani and that she is living with her friend Jaseena at Angadipuram, Perinthalmanna and that Jaseena's father become indifferent to bring her to the institution and therefore enquired with me whether I can go to the house of Aboobekcr and bring the detenu to the institution for being admitted in the course. I agreed to pick the detenu from the house of Aboobecker and to bring her to Sathyasarani. When I reached there I was informed by the detenu that Mr. Aboobecker

has called the parents of the detenu and wants to forcefully hand over the detenu to her parents. Though I counseled the detenu to complete her studies before taking such a decision and assured my assistance for helping to get admitted in Sathyasarani for learning Islam, she was adamant and realizing the situation not conducive for a settlement, I left the place giving my visiting card to the detenu for any help if required in future.

24. It is submitted that I informed Sathyasarani that the detenu might go with her parents and that I have left my address to contact me if necessary. It is submitted that the detenu came to my house at about 2 p.m on 7.1.2016 and told me that she managed to escape from Aboobecker , that what she fears is that once she is handed over to parents, it would be difficult for her to embrace the faith of Islam, that she should be helped at this moment of crisis lest she will vanish from the scene. I could not resist this plea for help and I consoled her to be calm assuring all my help.



25. It is submitted that she appeared before this Hon'ble Court and her statement was taken. This Hon'ble court having convinced that the alleged detenu is not under any illegal confinement and that she desire to join sixth respondent to learn Islamic rituals, this Hon'ble court permitted her to go with this deponent and to stay in her house till the detenu joins the above said institution. This Hon'ble Court directed to produce proof regarding admission of the alleged detenu in the institution of the sixth respondent. Accordingly Hadiya came with me stayed with me and joined the sixth respondent. After completing the course, she got readmitted in Tharbuyathul Islam Sangam on 16.7.2016 and on being discharged she was issued with a certificate certifying that she has embraced Islam- True copy of the certificate issued by Tharbyathul Islam sangam dated 25.7.2016 is produced herewith and marked for reference as Exhiblt-R7 (g).

26. It is submitted that during her stay with the sixth respondent this deponent made two calls to the petitioner as an effort to ease out the strained relation of the petitioner with the alleged detenu and to explore the future course for completing her House surgeency. There was no response. I am also informed that even the sixth respondent tried to contact the petitioner for making things easy for her to complete the house surgeency. But the petitioner never cooperated.

27. It is submitted that the detenu however continue to maintain her contact with the petitioner and family over mobile. The petitioner and the family members seldom had a cordial dialogue and most of the time she was accused of being a terrorist with terror outfit. It was really torture for the detenu to hear from the family that she is with extremist and ISIS person. She wanted to disconnect the entire relation itself. Notwithstanding this I have persuaded the detenu to keep her relation with parents cordial and

warming as that is the mandate of Almighty and the exception to this rule is only when the parents stand in the way of worshipping the creator. Hence the alleged detenu despite taunting and provocative statements from the other end, have maintained to keep in touch with the petitioner and family. This fact will be clear from the call records of the detenu's mobile number 9446544471 which would testify the contact with the petitioner even on 17.8.2016 the date on which police raided my house.

27. It is most disheartening that the police officers relying on the allegation in the writ petition make most irresponsible statement giving credentials to false averments in the writ petition without verifying facts which persuaded even this Hon'ble court to pass the order dated 22.8.2016. This Hon'ble court perhaps would not have taken a decision to sent the alleged detenu to hostel if the police officers have not made false claim giving credentials to the petitioner's



allegations. This is clear from the order dated 22.8.2016 of this Hon'ble court which reads thus:

4. In view of the allegation contained in the writ petition we are not satisfied that the detenu should be allowed to accompany the 7<sup>th</sup> respondent today. This is for the reason that according to the police she had been missing for the past one month. It is therefore necessary to await further inputs before any final decision could be taken in the matter."

28. The torture made on her by the petitioner and the family members was just for the simple reason of accepting a religion of her choice. It is in fact a tussle between her family and herself, the former wants her to follow the religion by default and the later want to follow a religion by choice. In this regard the following extract from the judgment in *Kailash Sonkar v. Smt. Maya Devi* 1984 (2) SCC 91 of the Hon'ble Supreme court is to be born in mind:

"31. Another aspect which one must not forget is that when a child is born neither has he any religion nor is he capable of choosing one until he reaches the age of discretion and acquires proper understanding of the situation. Hence the mere fact that the parents of a child who were Christians would in ordinary course get the usual baptism certificate and perform other ceremonies without the child knowing what is being done but after the child has grown up and becomes fully mature and able to decide his future, he ought not to be bound by what his parents may have done. Therefore, in such cases, it is the intention of the converttee which would determine the revival of the caste."

29. It is submitted that the alleged detenu after having completed BHMS course could not pursue her house surgeoncy in Sivraj Homeopathic Medical College due to hostile atmosphere and therefore made a request to the said institution to issue NOC to join another college for internship. True copy of

the request made by the alleged detenu to the Principal is produced herewith and marked for reference as Exhibit-R7(h).

30. It is submitted that in the meanwhile the alleged detenu was taking training in Homeopathy by attending a clinic at Kottakal. After completing her training in classical method, she was proposing to join another Homeopathic Clinic in Kondotty and for that she has even taken admission in Daya Working Women's Hostel in Kondotty on 17.8.2016. True copy of the receipt issued by Daya Working Women's Hostel, Kondoty for receiving advance amount of Rs. 2000/- is produced herewith and marked for reference as Exhibit-R7(i).

31. It is respectfully submitted that it was at a time the alleged detenu was about to join another clinic at Kondoty as trainee, the police clamped on me in search of the alleged detenu and myself and the alleged detenu was shocked as to why the police with such zest and zeal is after our life. We could not find any reason for haunting us.



32. In the circumstance I approached District Superintendent of Police with a petition seeking police protection against police harassment. A true copy of the said petition submitted on 22.8.2016 is produced herewith and marked for reference as Exhibit-R7(j).
33. It is submitted that I am a law abiding citizen of my motherland, I have not committed any crime either against the petitioner or against the society. I do not belong to any terror outfit and I have nothing to do with any banned organizations. My association has been only with such organization that is functioning within the frame work of Indian constitution. My conscious is clear in this regard.
34. The detenu was taken care of me since the day she came to me seeking help. I have treated her with all status of my daughter which she will continue to enjoy at my home until she desire. And I am morally ethically and spiritually and above all even on a humanitarian consideration is bound to help a person in crisis, unmindful of its consequences.

What all I have done is only in the spirit of a social animal and nothing else, for I am guided by the following verses of the Holy QURAAN:

"O ye who believe! stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just that is next to piety and fear Allah. For Allah is well-acquainted with all that ye do. (Al-Quraan-The Table - 5: 8.)

35. It is submitted that this Hon'ble Court in the Habeal in corpus petition filed by the petitioner as W.P. (Crl) No. 25/2016 found the stay of the alleged detenu with me as one by her own will and that she was not under illegal custody or detention. The petitioner in that Writ Petition also has made very same allegations. This Hon'ble Court took the statement of the alleged detenu and was convinced that "the alleged detenu is not under any illegal confinement and disposed of the Writ Petition holding that there exist no circumstances for

warranting interference for issuance of any writ of habeas corpus. The petitioner and his family members were given liberty to visit the alleged detenu at Sathyasarani subject to its regulations if any regarding visiting time. Petitioner or the detenu's family members however did not chose to visit.

36. It is submitted that the petitioner was fully convinced that the alleged detenu embraced Islam by her own choice and that she refused to join the family as the petitioner failed to inspire confidence in her to live by the principles of Islam. However be either by the grudge of embracing Islam or at the behest of fanatical communal element abused the process of this court by filing the above Writ Petition fully knowing that the alleged detenu will not come with him however wanted to harass not only the alleged detenu but all those who have helped her in the moment of crisis. This fact is further clear from the very prayer of the Writ Petition itself which reads thus:



"issue a writ of habeas corpus directing respondents 1 to 5 to produce the detenue before this Hon'ble Court as\*expeditiously as possible and this Hon'ble court may kindly be pleased to accommodate her in any government institution for women, if she is unwilling to go along with the petitioner."

37. From the above prayer itself it is clear that the petitioner wanted to harass the-petitioner by a process of this court and get her detained against her will in the hostel and deny her liberty. This Hon'ble Court unfortunately fell prey to this ploy of the petitioner and the alleged detenue stand detained against her will by an order of this court, invoking the writ of habeas corpus which is a jurisdiction required to be exercised for ensuring freedom enshrined in part 3 of the Constitution of India. A citizen's stand stripped of her right by an institution that constitutionally visualized as its protector. The crime of the petitioner in resorting to such an action by malafide intention therefore

required to be addressed by this Hon'ble Court  
awarding compensatory cost.

It is therefore most humbly prayed that this  
Hon'ble Court maybe pleased to dismiss the above Writ  
Petition with compensatory cost.

All the facts stated above are true and correct.

Dated this the 28<sup>th</sup> day of August, 2016.

DEPONENT

Solemnly affirmed and signed before me by the  
deponent who is personally known to me on this the  
28<sup>th</sup> day of August, 2016 at my office at Ernakulam.

P.K. IBRAHIM  
ADVOCATE

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Annexure-P15-

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

W.P. (C) No: 297 of 2016

Asokan.K.M.

: Petitioner

Vs.

The Superintendent of Police & Ors

: Respondents

Sathya  
Sathya

**COUNTER AFFIDAVIT FILED BY THE 6<sup>TH</sup> RESPONDENT**

I, Muhammed Rafi, aged 49 years, S/o.All, residing at Thennadan House, Thada Parambu, Payyannur P.O., Manjeri, do hereby solemnly affirm and state as follows:

1) I am Manager of the 6<sup>th</sup> respondent. I swear to this affidavit on behalf of the 6<sup>th</sup> respondent. I deny all the allegations in the Writ Petition except those that are expressly admitted hereunder.

2) The Writ Petition is not legally maintainable and liable to be dismissed. Even though, the Writ Petition is seen filed for a writ of Habeas Corpus to produce the alleged detainee before this Hon'ble Court, it is not averred in the Writ Petition under whose illegal custody the alleged detainee is. It is respectfully submitted that the Writ Petition instead of stating facts based on which the complaint is made, sought to abuse the 6<sup>th</sup> respondent in an extremely intemperate language making allegations which are totally false. The 6<sup>th</sup> respondent has not at any point of time attempted to keep any person including the alleged detainee under its custody. Allegations to the contrary are false and made knowing them to be false.



3) The 6<sup>th</sup> respondent is a registered Charitable Trust. It is not an Islamic conversion centre as alleged. The 6<sup>th</sup> respondent is not authorized to convert any person to Islam religion. It is not involved in the conversion of any person from any religion to Islam. I stoutly deny the allegation that the 6<sup>th</sup> respondent has connection with people or religious groups indulging in anti national activities. Allegations to this effect are false, reckless and highly irresponsible, I deny them. The intemperate language and the reckless way of making wild allegations against the 6<sup>th</sup> respondent reveals the state of mind of the petitioner and his extreme prejudice against the Islamic religion. The process of this Hon'ble Court is being abused for the purpose of hurling abuses against persons and organizations which do not contribute to the religious ideology which the petitioner believes and practices. It is respectfully submitted that the 6<sup>th</sup> respondent is not involved nor is it interested in doing anything which would in any manner weaken the secular fabric of the Nation.

4) The averments in para 3 are not within the knowledge of this respondent. It is for the petitioner to substantiate these allegations. Ms. Akhila Asokan @ ~~Hadiya~~ approached the 6<sup>th</sup> respondent with a request to admit her to a course conducted by the 6<sup>th</sup> respondent relating to religious practices in Islam and also to learn Quran. She was admitted for the course after ascertaining the fact that she is joining the course on her true will. After completion of the course she left the 6<sup>th</sup> respondent institution. All allegations to the contrary made in the Writ Petition are false and opposed to truth.

5) The averments in para 5 are false and hence denied. I reiterate my submission that the 6<sup>th</sup> respondent does not convert persons from other religions to Islam religion as alleged. The Government of Kerala has enabled two organizations in the State of Kerala to convert interested persons to Islam religion. These organizations are located at Calicut and Ponnani respectively. Other than these organizations to the knowledge of this respondent, no other body is permitted by the Government to facilitate conversion. These facts are known to the petitioner and is clear from his own averments in the Writ Petition.

6) I refute the allegation that the alleged detainee is in the custody of the 6<sup>th</sup> respondent. These facts can be ascertained by this Hon'ble Court from the alleged detainee herself. The petitioner having become a pawn in the hands of certain communal elements are permitting himself to be used as an instrument for spreading hatred and destruction of communal harmony among peace loving religions.

7) The Writ Petition is an abuse of process of court of law. The very same person filed a Writ Petition on a previous occasion making the very same allegations. This Hon'ble Court entertained the Writ Petition issued a writ of Habeas Corpus and caused the presence of the alleged detainee before this Hon'ble Court. After ascertaining her will and on being satisfied that she is not in illegal custody closed the Writ Petitions giving liberty to her to go away with the 7<sup>th</sup> respondent. The present Writ Petition does not disclose any new materials to suggest that Ms. Akhila Asokan @ ~~Ms. Akhila Asokan~~ is under illegal custody. In the above circumstances, the present Writ Petition is a clear abuse of



process of Court and is filed with the malafide intention of generating communal hatred. Various averments in the Writ Petition about intention and activities of 6<sup>th</sup> respondent are products of over active imagination and intolerance and therefore opposed to truth. Petitioner cannot insist that others <sup>should</sup> share his views in these matters. The 6<sup>th</sup> respondent as a responsible Charitable Trust is entitled to protection guaranteed by the constitution as well as various laws of the land including protection against slander.

8) Grounds urged in the Writ Petition are not sustainable. The Writ Petition does not reveal even a prima facie case for the invocation of the jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. Reckless averments in the Writ Petition has resulted in extreme hardship and injury to the 6<sup>th</sup> respondent.

It is, therefore, just and expedient that this Hon'ble Court may be pleased to dismiss the Writ Petition with this respondent's cost.

All the facts stated above are true

Dated this the 31<sup>st</sup> day of August, 2016

Deponent:

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 31<sup>st</sup> day of August, 2016 in my office at Ernakulam.

Advocate





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Office of the  
Deputy Supdt. Of Police  
Perinthalmanna, dated 01.09.2016

From

Deputy Supdt. Of Police  
Perinthalmanna.

To

Sri.Tom Jose Padinjarekkara  
Additional Director General of Prosecution  
Advocate Genaral Office, Ernakulum

Sir,

Sub-: Writ Petition (Crl.)No. 297/2016 report  
submission - reg:

Ref:- Perinthalmanna P.S. Crime No.21/16 u/s 57

K.P. Act reported on 8.1.2016 altered, into

Sec. 153 (A), 295 (A),107 IPC on 11.1.2016.

I am working as Deputy Supdt. Of Police,  
Perinthalmanna 01-08-16 onwards.

I am submitting the following facts for your kind  
consideration and favourable order.

The gist of the case is that Akhila D/o Ashokan ,  
the complainant of this case was reported to be missing  
on 7.1.2016 at 11.00 hrs etc facts..

It is submitted that, in this connection on 8.1.2016, father of Akhila, Sri. Asokan, S/o. Mani, age 56/16, Kuzhipparambil House, T.V.Puram, Vaikom, Kottayam District preferred a complaint before Deputy Supdt. Of Police, Perinthalmanna stating that Akhila was missing. The complaint was forwarded to Sub Inspector of Police, Perinthalmanna for further necessary action, which was got registered as Crime No. 21/16 u/s 57 of K.P Act. The Sub Inspector of Police, Perinthalmanna started investigation by constituting a special investigation team. During the investigation statements of Akhila's friend Jaseena (daughter of Aboobacker Perayil) and Aboobacker(AI) were got recorded. The Sub Inspector also collected the call details and tower locations of Mob. Nos. 8129074447 and 9446544471 which were used by missing Akhila. On investigation it was revealed that Akhila and Jaseena were room-mates at a rented house at Salem in Tamil Nadu while studying at Sivaraja Homeo Medical College for BHMS Course. There were 4 other students also in that house. Out of these students 4 belonged to Hindu Community and 2 hailed from Muslim Community. Akhila was a



close friend of Jaseena and she used to visit Jaseena's house at Cherakkapparambu and occasionally stayed there. Her friendship with Jaseena and her occasional visit to Jaseena's house and the customs and rituals carried out by Jaseena, being a muslim attracted Akhila to Islam religion and she developed an interest to join Islam, for which she requested the help of Jaseena's family. Accordingly, Akhila and Aboobacker(Jaseena's father) approached one Notary Public Adv. Sreeeijith of Perinthalmanna and prepared an Affidavit for her conversion to Islam stating that she is accepting Islam Religion and intended to live as a believer of Muslim Community and there was no one's compulsion or inspiration in this regard. Subsequently they reached at KEAM, Kozhikkode (Muslim Conversion Centre) and also at Sathya Sarani, at Manjeri on 4.1.2016.

It is submitted that, as per the direction of District Police Chief, Malappuram the further investigation of this case was conducted by Inspector of Police, Perinthalmanna from 9.1.2016. Accordingly he searched for the girl, who was missing at that time at various

lodges of Kozhikkode and neighbouring places. He verified the details of phone contacts made by Akhila. Subsequently search was conducted at Mangalore and one Sherin Shahana and her husband Fasil Musthafa at Mangalore were traced. According to their statement it is learnt that they have come in contact with Akhila through one Shanib. Shanib. is a MBA student at Bangalore who is an internet friend of Akhila and also a relative of Sherin. Sherin stated that on 10.9.2015 she met Akhila at Eranakulam. She re-named Akhila as 'Aas/ya' and also prepared an affidavit in the presence of Notary Public Adv. Devi. A.C of Eranakulam.

During the course of investigation police recorded the statement of Asokan, father of Akhila. He stated that on 6.1.2016 Akhila reached the college at Salem wearing dress as Muslim woman used to. On getting this information Akhila's mother gave a hoaxcall to Akhila that her father has met with an accident and told her to come back to Ernakulam. But Akhila came to know that it was a wrong information and she did not return home. She contacted Sathyasarani and alongwith Jaseena reached at KSRTC Bus stand Malappuram as



directed from Sathyasarani. There she met Sainaba W/o Aliyar, Srambikkal Arichol, Kottakkal. Then they proceeded to the house of Jaseena at Cherakkaparamba. Next day pretending that she was returning to Salem she boarded bus to Palakkad and got down near KSRTC Bus stand Perintalmanna where she met Sainaba as arranged and went with her to her house at Kottakkal. On getting information that Akhila has not returned home, from Archana (one roommate of Akhila at Salem) Akhila's parents went to the house of Jaseena, from where they were informed that Akhila was missing. Accordingly Asokan preferred a complaint and a case in Crime No. 21/16 u/s 57 of K.P Act was got registered as mentioned.

During the investigation it was revealed that Jaseena's father Perayil Aboobacker has induced Akhila to join Islam and by the way he has caused promotion of enmity between Hindu and Islam religion affecting maintenance of communal harmony Hence the sections of the case were altered into 153(A), 295(A), 107 IPC on 11.1.2016 and thereby he was arrested on the sameday and produced before Hon. Court.



Subsequently Ashokan father of Akhila filed a Habeas Corpus (writ petition (Cri.) No. 25/2016 before the Honourable High Court. As per the direction of State Police Chief vide COB message No D9/6119/PHQ/2016 dtd 12.01.2016 and Vide Order No. D1/2953/16 MM dated 12.1.2016 and the then District Police Chief Malappuram former Deputy Supt. Of Police Perintalmanna took up the investigation of this case on 13.1.2016. The investigation revealed that the above mentioned Sainaba of Ponmala and her husband Aliyar had connection with the missing of Akhila. On enquiry they both were found missing. Sainaba' Teacher is an active worker of National Woman Front and her husband is a activist of Popular Front of India.

In connection with this. Search was conducted at the house of Nazaruddeen Elamaram, the former President of SDPI State Committee since he had phone contact with Sainaba and Ali. Search was also conducted at the residence of Basheer, Treasurer of NDF State Committee at Kalpakancheri. In response to the Habeas Corpus Akhila herself appeared before the Hon'ble High Court of Kerala on 18-01-2016

and on 19-01-2016 she submitted that she likes to stay with Sainaba and is intending to join the institution named " Sathya sarani" at Manjeri to pursue Islamic Studies. She also stated that she embraced Islam out of her own will and no compulsion or threat was there from anybody. The Hon'ble High Court directed the Investigating Officer to record the statement of Akhila. She stated before the investigating Officer that she converted to Islam voluntarily and there was no compulsion or threat from anybody. The Honourable High Court released her at her own liberty.

Further on 17-08-16 Ashokan , father of Akhila again filed a writ petition before Hon'ble High Court as (Crl.)No. 297/2016 stating that his daughter Akhila is being tried to be taken away to Syria to join ISIS and he suspects that there is chance of a fabricated false marriage with an extremist of Islamic States organization. Ashokan prayed before the Court to take emergency steps to prevent her from being taken out of the country. Accordingly thorough search was conducted by the Police. As a result Akhila herself



appeared before the Hon'ble High Court of Kerala on 22-08-2016.

Again before the Hon'ble High Court she stated that she was not interested to accompany her parents. Hence the Hon'ble High Court directed to accommodate Akhila in SNV Sadanam at Ernakulam. But due to non availability of accommodation at SNV Sadanam Akhila was accommodated in Shanthi Bhavan Hostel Ernakulam.

It is submitted that as a part of verification again statement of Akhila was recorded on 26-08-16. According to her statement she has embraced Islam religion out of her own will and no compulsion or threat was there from anybody. While interacting with her it is revealed that she has been taught a lot of things with regard to "Hell" and she has been made to believe that in order to escape from reaching "Hell" after one's death. Islam is the only solution for human kind. Again she believes that Islam will help her to reach heaven after death. She explains that this factor attracted her to join Islam. On- verification it is also learnt that she doesn't



posses a passport till this date. During the enquiry the only chance of her leaving the country is obtained from the fact that Sherin Shahana, one of her contact had once offered her to take to Yemen, if she reaches Mangalore. According to her at present she has no intention to join Islamic states. When she was explained about the plight of the persons who joined Islamic states from kasargode and Palakkad, she opined that they have joined Islamic states at their own will and at presently she had no interest in it. Other than Sherin Shahanas invitation to go to Yemen no other person who have come across during her missing time had talked to her about joining Islamic states. Enquiry was conducted at Passport office Malappuram also but the reply was that they require more time for verification . During the time of her appearance on 22.8.16 she was found possession of cell number 9446544471. On verifying it is learnt that the sim is issued to Akhila. The activation date of this sim card is on 04/01/2016 The CDR of this number was collected for the period from 01-06-2016 to 30-08-2016. The contact numbers were verified and nothing unusual was detected. On investigation it is found that from 21.1.16 to 21.3.16 Akhila was stayed at Sathya Sarani Manjeri. Then from 21.3.2016 to 17.8.2016 with Sainaba and family at Sainaba's house at Arichole near Kottakkal. On enquiry when search was conduted at Sathya Sarani and at the house of Sainaba; Akhila and Sainaba took shelter in the house of one Memadan Ali, Chakkunkulam, Kizhissey from 17.8.2016 to 22.8.2016.

A detailed enquiry was conducted about the 6th respondent and 7th respondent. The 6th respondent is markazul Hidhaya Educatoinal Charittable Trust better known as sathyasarnai, which is situated near Charani, Manjeri, Malappuram District. It is run by a trust which has for 9 members and registered under the Board of Trust Act. The Registration no of the Institution is 214/2008. The institution occupies one Acre 30 cents in which three building are seen erected. At the time of enquiry in total there are 52 inmates in the institution for the purpose of Islamic studies. Out of which 16 members (Male - 9 and Female - 7) belongs to Christianity 28 members are from Hindu (11 Male, 17 Female) 8 members from Muslim community ( 5 male and 3 female). Generally it is known as an institution to impart Islamic studies among the interested person of different religion. There is 22

- Administrative staff in that institution, they include Manager, Assistant manager, Registration officer, Accountant, teachers, cooks, securities and office boys. The inmates are given 55 days course. Male and Female inmates are kept apart and it has got boarding facilities.

// True Copy //



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Annexure P-17

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE C.K.ABDUL

REHIM

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA

KUMAR

Thursday, the 1st day of September 2016/10<sup>th</sup>

Bhadra, 1938

WP(Crl.) No.297/2016(S)

PETITIONER

ASOKAN K.M., S/O MANI, AGED 56,  
KARATTU HOUSE, (DEVI KRIPA),  
T.V.PURAM POST, VAIKOM,  
KOTTAYAM DISTRICT, KERALA.

RESPONDENTS

1. THE SUPERINTENDENT OF POLICE,  
MALAPPURAM DIST. PIN-679001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM  
DIST.PIN-689001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM  
RANGE, KOCHI, PIN-682031.



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4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER), POLICE HEAD QUARTERS, TRIVANDRUM-695001.
5. NATIONAL INVESTIGATION AGENCY, REPRESENTED BY THE SUPERINTENDENT OF POLICE(NIA), NO.28/443, 4TH CORSS, GIRI NAGAR, KADAVANTHRA, KOCHI, PIN-682016. THROUGH SPECIAL PUBLIC PROSECUTOR, (NIA), HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA, SATHYASARANI EDUCATIONAL & CHARITABLE TRUST, KARUVAMBRAM P.O., MANJERI, MALAPPURAM DISTRICT, PIN-676123, REPRESENTED BY ITS MANAGER.
7. SAINABA A.S., SRAMBIKCAL HOUSE, PUTHOOR P.O., KOTTACKAL, MALAPPURAM DISTRICT-679124.

Writ Petition (criminal) praying inter alia that in the circumstances stated in the affidavit filed along with the WP (Crl.) the High Court be pleased to direct the respondents 1 to 5 to produce the detainee before this Hon'ble Court and this Hon'ble Court may kindly be

pleased to hand her over to the paternal custody and control of the petitioner, as an interim measure, pending disposal of this Writ Petition (Crl.).

This petition again, coming on for orders upon perusing the petition and the affidavit filed in support of WP(Crl.) and this Court's order dated 22/08/2016 and upon hearing the arguments of SRI. C.K.MOHANAN, Advocate for the petitioner, GOVERNMENT PLEADER for R1 to R4, SRI. M.AJAY, Advocate for R5, SRI. P.RAVINDRAN (SENIOR ADVOCATE) along with SMT. LIZA MEGHAN CYRIAC Advocate/ for R6 and of M/S. P.K.IBRAHIM, K.P.AMBIKA, A.A.SHIBY, S A.L.NAVNEETH KRISHNAN, Advocates for R7, the court passed the following:-

C.K.ABDUL REHIM &

SUDHEENDRA KUMAR, JJ.

W.P.(Crl.) No:297 of 2016

Dated this the 1<sup>st</sup> day of September 2016

OR PER

Pursuant to the order of this Court dated 22.08.2016, it is submitted by the learned Government

Pleader that, a report of the Deputy Superintendent of Police, Perinthalmanna is being filed on today. The 7<sup>th</sup> respondent had filed counter affidavit.

Post the matter for consideration on 5.9.2016.

2. It is reported by the counsel appearing for the alleged detainee that, despite specific direction issued by this court to admit the alleged detainee at S.N.V. Sadanam hostel, Emakulam, she was not admitted in the said hostel, instead she was admitted only in the Shelter Home run by submitted that the police authorities could not admit her at accommodation. According to learned Government Pleader submitted that the police authorities could not admit her at the S.N.V. Sadanam Hostel on 22.08.2016 due to lack of accommodation. According to learned Government Pleader, it is after getting the oral permission from the court that she was admitted in the Shelter Home of the Corporation. Learned counsel for the detainee submitted that the detainee may be directed to the



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accommodated in any other suitable Hostel, till the next posting date. Accordingly we direct the Police Officer, who is present before this court to take steps to accommodation the alleged detainee at Sandhi Nikethan Hostel, Samajam Road Vaduthala, till the next posting date.

The alleged detainee shall be produced before this court on 5.9.2016.

In modification of the order dated 22.8.2016, we permit the counsel appearing for the alleged detainee to visit her subject to the regulations of the hostel authorities

Sd/-  
C.K. ABDUL RE HIM,  
JUDGE

Sd/-  
B. SUDHEENDRA KUMAR,  
JUDGE

True copy

ASSISTANT REGISTRAR

//True Copy//

Annexure P-18

BEFORE THE HON'BLE HIGH COURT OF KERALA AT 279

ERNAKULAM

W.P. (Crl.) No. 27 of 2016

Asokan K. M.

.....Petitioner

Vs.

The Superintendant of Police & Ors....Respondents

AFFIDAVIT

1. I, Akhila Asokan @ Hadiya, aged 24 years, D/o Asokan, presently residing at Santhiniketan Hostel, Pachalam, pursuant to the direction of this Hon'ble court do hereby solemnly affirm and state as follows:-
2. I am the alleged detainee mentioned in the above Writ Petition and am conversant with the facts of the case. I am swearing to this affidavit out of my own will and accord without any kind of compulsion from any quarters, person or organization.
3. I am the petitioner in the accompanying petition for impleading for I believe that I need to contest

the matter of my own than being a silent spectator of the whole drama that is being replayed before this Hon'ble court at the instance of the petitioner. I firmly believe that my father has been misled into filing this 2<sup>nd</sup> round of Writ Petition by persons with oblique motives. I beg that the averments in this affidavit may be taken into consideration while disposing of the above Writ Petition.

4. It is submitted that the above Writ Petition is not maintainable either on facts or under law. The above Writ Petition is barred by the principles of res-judicata since petitioner has already once earlier approached this Hon'ble court and after detailed examination of the facts this honorable court found that I am not under any illegal detention and I was permitted to live the life of my choice. Without any further change in circumstances the above Writ Petition has been filed and the same is not permissible under law.
5. It is submitted that this Hon'ble Court has already enquired into allegations of my "illegal detention"



in the earlier Writ Petition and it is after considering my affidavit on record that the said case was closed because there was no illegal detention at all. I am a major, aged 24 years and having completed B.H.M.S, Shivaraj Homeopathy Medical College at Salem. While doing my BHMS course, I was staying in a rented house at Salem along with my friends. Among my roommates include two Muslim friends namely Jaseena and Faseena belonging to Perinthalmanna, Malappuram and three Hindu friends namely Archa, Dhilna and Divya.

6. I was impressed by the timely prayers performed by the aforesaid two Muslim friends and was influenced by their good character. I wanted to learn about Islam and began reading Islamic Books and also viewing interesting videos to learn about Islam. My doubt about the concept of many Gods in Hindu faith and confusion as to which God, I should pray got gradually cleared and the ideology of ONE GOD propounded by Islam appealed to me.

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I started following Islam for the past three and a half years but formally announced my change of faith only in the last court proceeding. Petitioner is an atheist and does not believe in any rituals.

7. I used to pray both in the room during college and even at my own house. On one occasion the petitioner saw me performing Namaz and he warned me against Islam saying that it is a religion of terrorism. My mother being as ardent believer in Hinduism wanted me to follow Hinduism. Therefore I was forced to keep my faith in Islam secret at least at home. When my grandfather died in November 2015, my father being the eldest son was to perform the "Bali", but he refused and kept away from all rituals. The other relatives participated. I also kept away from such ceremonies in the 1<sup>st</sup> day but in the 2<sup>nd</sup> day the relatives forced me to participate in the Bali and I had to oblige them. This incident caused deep mental agony to me for I had embraced another faith and such rituals are prohibited in Islam.

8. I therefore left home on 2.1.2016 resolving to formally accept Islam and I directly went to my friend Jaseena and sought help for the same. Jaseena's father Mr. Abookacker agreed to help me get admitted in some institution having special coursed for converts to Islam. Accordingly Mr. Aboobacker took me to one institution namely KIM. They informed him that since I do not possess any certificate of being converted to Islam, they cannot admit me in their institution. Mr. Aboobecker then took me to Tharbiathul Islam Sabha on the advice of KIM. At Tharbiathul, they agreed to admit me as an external candidate and issue books and syllabus of the course designed for new Muslims but for being admitted as internal student to study staying in hostel, they insisted to bring my parents. Finding no option, I expressed my desire to join as external candidate. They took affidavit from candidates for writing the exam. Photocopy of the admit card issued by Tharbiathul Islam Sabha is produced herewith and marked for reference as Annexure A1. True copy of the Affidavit submitted



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at Tharbiyathul Islam Sabha is produced herewith and marked for reference as Annexure A2.

9. It is submitted that Mr. Aboobaker did not want to keep me at his house and therefore approached another institution named Satysarani (6<sup>th</sup> respondent herein) for exploring whether I could be admitted in their hostel for Islamic course. The officials at Satysarani informed that the concerned person for admission is not available and advised to report after two days with a notarized affidavit. Agreeing to this Mr. Aboobacker and me returned to his home. I stayed at Aboobacker's place from 2.1.2016 to 4.1.2016. On 5.1.2016, Mr. Aboobacker told me that he cannot help me anymore and that I should go back to Salem. Accordingly I was sent back to Salem on 5.1.2016. On 6.1.2016 I went to the college wearing a scarf for the first time declaring openly my change of faith. When asked, I informed my friends that I have officially become a Muslim. My friend Archana phoned my parents and asked whether I had informed home about my conversion to Islam.

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10. On 6.1.2016 at about 3 p.m I received a phone from my mother informing that my father had met with an accident and sustained a fracture on his legs and that I should come immediately. I knew that the said information was false and it is only a ploy to get me back at home. I knew that I would be forced to go home and therefore not knowing what to do, I finally decided to go to Jaseesna's house at Peruthalnanna in Malappuram. I reached at Jaseena's house at about 1 a.m on 7.1.2016. On the way to Perinthalmanna I got a call from petitioner saying that if I do not return home by 6. A.m, he will commit suicide. I therefore did not attend any call from my house. On my way to Perinthalmanna I informed Satysarani that I would like to be admitted on 7.1.2016 itself and that I would be available at my friend Jaseena's house. I also requested them to take me from Jaseena's house since her father was not agreeable to do any help and I did not know the way to the institution.
11. It is submitted that on my request, the Satyasarani contacted the 7<sup>th</sup> respondent herein, Sainaba, a

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social worker and Secretary of National Women's Front, and a volunteer of Kerala Legal Service Authority and sought her help in the matter. She was asked to meet me at and render some help. Accordingly the 7<sup>th</sup> respondent came to meet me but by this time my father, who was called by Mr. Aboobacker, had come and started an argument with Mr. Aboobacker. Seeing this the 7<sup>th</sup> respondent left the place leaving the matter to be sorted out. Before leaving she had counseled me that I should accompany my father home and that I could keep in touch with her for advice. I managed to escape and approached the 7<sup>th</sup> respondent and sought her help and she was kind enough to help me in my moment of crisis. I found her daughter of almost my age and I was staying with the 7<sup>th</sup> respondent and her family from 7.1.2016 onwards.

12. I then sent a registered letter to the Petitioner on 11.1.2016 informing that on account of the complaint filed by him the police is harassing my friends and pleaded that he should not pursue the



complaint for police to harass me and my friends. In the said letter I informed him that I had left home to protect my faith and being fully aware of the material loss that I would face, which otherwise I could enjoy as the only daughter. A true copy of the said letter sent by registered post is produced herewith and mark for reference as Annexure A3

13. I also addressed a letter to the Director General of Police with copy marked to Circle Inspector of Police Perinthalmanna and Sub Inspector of Police Vaikom stating inter alia that I had left home of my own volition and that I embraced Islam which I have been practicing for 3 years and that I would like to live a Muslim, which was not possible with my parents and that the complaint by the petitioner is false and intended only to harass me and friends. I have also enclosed a copy of my letter to petitioner. True copy of the letter addressed to the Director General of Police with the copy marked to the Circle Inspector Perinthalmanna and Sub Inspector of police,

Vaikom is produced herewith and mark for reference as Annexure A4.

14. It is submitted that a crime was registered by the Perinthalmanna police as Crime No. 21/2016 for (wo)man missing. It is learnt that my friend's father Mr. Aboobacker was questioned by the police and arrested and released on bail. The 7<sup>th</sup> respondent also started getting harassed by police. We therefore filed a writ petition against police harassment on the false complaint of the petitioner and sought protection in WP (C) No. 1965/2016 and we then came to know of A Writ of Habeas Corpus filed by petitioner before this Hon'ble court. I therefore filed an application for impleading myself in the said case. Both the cases were heard together and this Hon'ble Court closed the Writ Petition said stating that I was not under illegal detention. This Hon'ble court found that my stay where the 7<sup>m</sup> respondent was out of my own choice and there was nothing illegal. I was permitted to live in the place of my choice and my family members were permitted to visit me if they so

wished. I have formally completed my course in Islam and I have received my certificate that I have embraced Islam and that I have successfully completed the course conducted by Therbiyathul Islam Sabha. True copy of the certificate dated 25.07.2016 is produced herewith and may be marked as Annexure-6.1 I have also started working in a homoeo clinic in Malapuram.

15. It is submitted that after the disposal of the said case none of my family members have visited me. On the other hand I have been talking to my parents and the 7<sup>th</sup> respondent always used to taunt me because I had once mentioned that in Islam the prophet used to lead a herd of sheep. He would always ask me as to when I was going for rearing the sheep. Many times I have told him that since the prophet was of ancient era there were herds of sheep and now times have changed but it appears that he thinks I will go somewhere abroad. This is not true. I have no passport of my own and I have not even applied for it to undertake foreign travel. It is only now I have come to understand



that petitioner was trying to put words into my mouth he was recording the conversation without my knowledge or consent.

16. It is submitted that I am a major and I have taken the decision to follow the religion of Islam which I have been holding close to my heart for several years. I will have no freedom to practise my religion at home and such practice at home with only invite more hatred from parents and other relatives, which I have already experienced. It is a question of protecting one's fundamental right and nobody for that matter, even my parents cannot interfere. My right to faith and practise the religion of my choice and liberty to live and work where I wish is at peril and petitioner is misusing his role and is bent upon depriving me the fundamental rights guaranteed under Article 19, 21 and 25 of Constitution of India. I firmly believe that petitioner is being provoked and egged on by outsiders who want to inflate this incident out of proportion to suit their needs.

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17. Petitioner has therefore filed the above case without any cause of action. It is submitted that I am not under illegal detention. I have a right to chose my life and lead a life of my choice. Petitioner has no right to interfere in my choice and seek my custody to enforce his whims and fancies.
18. I am filing a petition for impleading myself as additional 8<sup>th</sup> respondent which may kindly be allowed and it is prayed that this Hon'ble Court may dismiss the above Writ Petition having regard to the facts stated herein above.

All the facts are true and correct.

Dated this the 4<sup>th</sup> day of September 2016.

DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 4<sup>th</sup> day of September 2016, at Santhniketan Hostel at Ernakulam.

//True Copy//

Annexure P-10

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5/9/2016

From

Deputy Supdt. Of Police  
Perinthalmanna

Sir,

Sri.Narayanan  
Government Pleader  
Advocate Genaral Office, Ernakulum.

Sub:- Writ Petition (Crl.)No. 297/2016 report  
submission - reg.

Ref:- Perinthalmanna P.S. Crime No.21/16 u/s 57 K.P.

Act reported on 8.1.2016 altered, into  
Sec.153(A),295(A),107 IPC on 11.1.2016.

I am working as Deputy Supdt. Of Police,  
Perinthalmanna 01-08-16 onwards.

I am submitting the following facts for your kind  
consideration and favourable order.

The gist of the case is that Akhila D/o Ashokan ,  
the complainant of this case was reported to be missing  
on 7.1.2016 at 11.00 hrs etc facts..

It is submitted that, in this connection on 8.1.2016,  
father of Akhila, Sri. Asokan, S/o. Mani, age 56/16,  
Karattu House, ( Devikriba ) T.V.Puram, Vaikom,  
Kottayam District preferred a complaint before Deputy



Supdt. of Police, Perinthalmanna stating that Akhila was missing. The complaint was forwarded to Sub Inspector of Police, Perinthalmanna for further necessary action, which was got registered as Crime No. 21/16 u/s 57 of K.P Act. The Sub Inspector of Police, Perinthalmanna started investigation by constituting a special investigation team. During the investigation statements of Akhila's friend Jaseena (daughter of Aboobacker Perayil) and Aboobacker(AI) were got recorded. The Sub Inspector also collected the call details and tower locations of Mob. Nos. 8129074447 and 9446544471 which were used by missing Akhila. On investigation it was revealed that Akhila and Jaseena were room-mates at a rented house at Salem in Tamil Nadu while studying at Sivaraja Homeo Medical College for BHMS Course. There were 4 other students also in that house. Out of these students 4 belonged to Hindu Community and 2 hailed from Muslim Community. Akhila was a close friend of Jaseena and she used to visit Jaseena's house at Cherakkapparambu and occasionally stayed there. Her friendship with Jaseena and her occasional visit to Jaseena's house and

the customs and rituals carried out by Jaseena, being a muslim attracted Akhila to Islam religion and she developed an interest to join Islam, for which she requested the help of Jaseena's family. Accordingly, Akhila and Aboobacker (Jaseena's father) approached one Notary Public Adv. Sreeeijith of Perinthalmanna and prepared an Affidavit for her conversion to Islam stating that she is accepting Islam Religion and intended to live as a believer of Muslim Community and there was no one's compulsion or inspiration in this regard. Subsequently they reached at KEAM, Kozhikkode (Muslim Conversion Centre) and also at Sathya Sarani, at Manjeri on 4.1.2016.

It is submitted that, as per the direction of District Police Chief, Malappuram the further investigation of this case was conducted by Inspector of Police, Perinthalmanna from 9.1.2016. Accordingly he searched for the girl, who was missing at that time at various lodges of Kozhikkode and neighbouring places. He verified the details of phone contacts made by Akhila. Subsequently search was conducted at Mangalore and



one Sherin Shahana and her husband Fasil Musthafa at Mangalore were traced. According to their statement it is learnt that they have come in contact with Akhila through one Shanib. Shanib is a MBA student at Bangalore who is an internet friend of Akhila and also a relative of Sherin. Sherin stated that on 10.9.20.15 she met Axhiia at Eranakulam. She re-named Akhila as Aasiya and also prepared an affidavit in the presence of Notary Public Adv. Devi A.C of Eranakulam.

During the course of investigation police recorded the statement of Asokan, father of Akhila. He stated that on 6.1.2016 Akhila reached the college at Salem wearing dress as Muslim woman used to. On getting this information Akhila's mother gave a hoaxcall to Akhila that her father has met with an accident and told her to come back to Emakularn. But Akhila came to know that it was a wrong information and she did not return home. She contacted Sathyasarani and alongwith Jaseena reached at KSRTC Bus stand Malappuram as directed from Sathyasarani. There she met Sainaba W/o Aliyar, Srambikkal Arichol, Kottakkal. Then they



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proceeded to the house of Jaseena at Cherakkaparamba. Next day pretending that she was returning to Salem she boarded bus to Palakkad and got down near KSRTC Bus stand Perintalmanna where she met Sainaba as arranged and went with her to her house at Kottakkal. On getting information that Akhila has not returned home, from Archana (one roommate of Akhila at Salem) Akhila's parents went to the house of Jaseena, from where they were informed that Akhila was missing. Accordingly Asokan preferred a complaint and a case in Crime No. 21/16 u/s 57 of K.P Act was got registered as mentioned.

During the investigation it was revealed that Jaseena's father Perayil Aboobacker has induced Akhila to join Islam and by the way he has caused promotion of enmity between Hindu and Islam religion affecting maintenance of communal harmony. Hence the sections of the case were altered into 153(A), 295(A), 107 IPC on 11.1.2016 and thereby he was arrested on the same day and produced before Hon. Court.

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Subsequently Ashokan father of Akhila filed a Habeas Corpus (writ petition (Cri.) No.25/2016 before the Honourable High Court. As per the direction of State Police Chief vide COB message No D9/6119/PHQ/2016 dtd 12.01.2016 and Vide Order No. D1/2953/16 MM dated 12.1.2016 and the then District Police Chief Malappuram former Deputy Supt. of Police Perintalmanna took up the investigation of this case on 13.1.2016. The investigation revealed that the above mentioned Sainaba of Ponmala and her husband Aliyar had connection with the missing of Akhila. On enquiry they both were found missing. Sainaba Teacher is an active worker of National Woman Front and her husband is a activist of Popular Front of India.

In connection with this Search was conducted at the house of Nazaruddeen Elamaram, the former President of SDPI State Committee since he had phone contact with Sainaba and Ali. Search was also conducted at the residence of Basheer, Treasurer of NDF State Committee at Kalpakancheri. In response to the Habeas Corpus Akhila herself appeared before the



Hon'ble High Court of Kerala on 18-01-2016 and on 19-01-2016 she submitted that she likes to stay with Sainaba and is intending to join the institution named "Sathya sarani" at Manjeri to pursue Islamic Studies. She also stated that she embraced Islam out of her own will and no compulsion or threat was there from anybody. The Hon'ble High Court directed the Investigating Officer to record the statement of Akhila. She stated before the investigating Officer that she converted to Islam voluntarily and there was no compulsion or threat from anybody. The Honourable High Court released her at her own liberty.

Further on 17-08-16 Ashokan, father of Akhila again filed a writ petition before Hon'ble High Court as (Crl.)No. 297/2016 stating that his daughter Akhila is being tried to be taken away to Syria to join ISIS and he suspects that there is chance of a fabricated false marriage with an extremist of Islamic States organization. Ashokan prayed before the Court to take emergency steps to prevent her from being taken out of the country. Accordingly thorough search was conducted by the Police. As a result Akhila herself



appeared before the Hon'ble High Court of Kerala on 22-08-2016.

Again before the Hon'ble High Court she stated that she was not interested to accompany her parents. Hence the Hon'ble High Court directed to accommodate Akhila in SNV Sadanam at Emakularn. But due to non availability of accommodation at SNV Sadanam Akhila was accommodated in Shanthi Bhavan Hostel Emakularn.

It is submitted that as a part of verification again statement of Akhila was recorded on 26-08-16. According to her statement she has embraced Islam religion out of her own will and no compulsion or threat was there from anybody. While interacting with her it is revealed that she has been taught a lot of things with regard to "Hell" and she has been made to believe that in order to escape from reaching "Hell" after one's death. Islam is the only solution for human kind. Again she believes that Islam will help her to reach heaven after death. She explains that this factor attracted her to join Islam. On verification it is also learnt that she doesn't

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posses a passport till this date. During the enquiry the only chance of her leaving the country is obtained from the fact that Sherin Shahana, one of her contact had once offered her to take to Yamen, if she reaches Manglore. According to her at present she has no intention to join Islamic states. When she was explained about the plight of the persons who joined Islamic states from kasargode and Palakkad, she opined that they have joined Islamic states at their own will and at presently she had no interest in it. Other than Sherinn Shahanas invitation to go to Yamen no other person who have come across during her missing time has talked to her about joining Islamic states. Enquiry was conducted at Passport office Malappuram also but the reply was that they require more time for verification. During the time of her appearance on 22.8.16 she was found possession of cell number 9446544471. On verifying it is learnt that the sim is issued to Akhila. The activation date of this sim card is on 04/01/2016 The CDR of this number was collected for the period from 01-06-2016 to 30-08-2016 .The contact numbers were verified and nothing unusual was detected. On



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investigation it is found that from 21.1.16 to 21.3.16 Akhila was stayed at Sathya Sarani Manjeri. Then from 21.3.2016 to 17.8.2016 with Sainaba and family at Sainaba's house at Arichole near Kottakkal. On enquiry when search was conducted at Sathya Sarani and at the house of Sainaba, Akhila and Sainaba took shelter in the house of one Memadan Ali, Chakkunkulam, Kizhissery from 17.8.2016 to 22.8.2016.

A detailed enquiry was conducted about the 6<sup>th</sup> respondent and 7<sup>th</sup> respondent. The 6<sup>th</sup> respondent is Markazul Hidhaya Educatinal Charittable Trust better known as 'sathyasarani', which is situated near Charani, Manjeri, Malappuram District. It is run by a trust which has got 9 members and registered under the Board of Trust Act. The Registration no of the Institution is 214/2008 The institution occupies one Acre 30 cents in which three building are seen erected. At the time of enquiry in total there are 52 inmates in the institution for the purpose of Islamic studies. Out of which 16 members (Male - 9 and Female - 7) belongs to Christianity, 28 members are from Hindu ( 11 Male, 17



Female) 8 members from Muslim community (5 male, and 3 Female). Generally it is known as an institution to impart Islamic studies among the interested person of different religion. There is 22 Administrative staff in that institution, they include Manager, Assistant manager, Registration officer, Accountant, teachers, cooks, securities and office boys. The inmates are given 55 days course. Male and Female inmates are kept apart and it has got boarding facilities.

With regard to 7 respondent she is a woman named Sainaba aged 44 years, she is residing along with her husband and two kids at Srambikkal house in Arichole, near Kottakkal. Her native place is Koombanpara at Adimaly of Idukki District. After marriage she has reached at Malappuram district and resided at various places and now residing at Srambikkal house at Kottakkal. Her husband's name is Aliyar, he belongs to Kothamangalm. Sianaba's academic qualification is polytechnic diploma in Electrical Engineering from Polytechnic Chelad. Though she claims that she is B tech graduate, nothing to that effect was produced by

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her in order to prove it. At present she is jobless and leading life of a house wife. She is a usual visitor of Sathya Sarani, where she used to conduct counseling as requirement comes. The enquiry has also revealed that the 7<sup>th</sup> respondent is involved in a similar case registered at Cherppulassery Police Station as Crime No.510/2016 U/s 57 of KP Act altered into section 365,344 r/w 34 IPC. Athira, a 21 year old girl, was found missing on 13-06-2016. Later she appeared before the Honourable High Court in response to a Habeas Corpus ordered by the Honourable High Court. She was also given counseling by the 7<sup>th</sup> respondent as in this case. Sainaba also used to conduct counseling at NWF (National Women Front) office at Kozhikkode. At present she holds the post of National president of NWF. Also she is the member of Kerala State Legal Service Authority. She produced a copy of certificate which is attached along with. It shows she had undergone a 2 days course on Transactional Analyst Training. She claims that she has undergone another course named ICTA regarding counseling and psychotherapy had completed, but no certificate is in her possession. She

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has worked as teacher in different Un-aided High schools in Malappuram District.

As per direction of the Honourable Court the detenue was produced before the Hon. Division Bench on 01-09-2016. After hearing both sides the Hon. High Court has ordered to produce the detenue before the Hon. High Court on 05-09-2016. Accordingly she is being produced for kind necessary action.

All the facts stated above are true and correct to the best of my knowledge and belief.

Dated this the 5<sup>th</sup> day of September 2016.

M.P. Mohanachandran  
Deputy Superintendent of Police  
Perinthalmanna Sub Division

//True Copy//



Annexure P-20

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE K.SURENDRA

MOHAN

THE HONOURABLE MRS.JUSTICE MARY JOSEPH

Monday, the 5th day of September 2016/14th Bhadra,

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WP(Crl.)No.297/2016(S)

PETITIONER

ASOKAN K.M., S/O MANI, AGED 56,  
KARATTU HOUSE, (DEVI KRIPA),  
T.V.PURAM POST, VAIKOM,  
KOTTAYAM DISTRICT, KERALA.

RESPONDENTS

1. THE SUPERINTENDENT OF POLICE,  
MALAPPURAM DIST. PIN-679001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM  
DIST.PIN-689001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM  
RANGE, KOCHI, PIN-682031.
4. THE DIRECTOR GENERAL OF POLICE (LAW &  
ORDER), POLICE HEAD QUARTERS,  
TRIVANDRUM-695001.

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5. NATIONAL INVESTIGATION AGENCY,  
REPRESENTED BY THE SUPERINTENDENT OF  
POLICE(NIA), NO.28/443, 4TH CORSS, GIRI  
NAGAR, KADAVANTHRA, KOCHI, PIN-682016.  
THROUGH SPECIAL PUBLIC PROSECUTOR,  
(NIA),  
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA,  
SATHYASARANI EDUCATIONAL & CHARITABLE  
TRUST, KARUVAMBRAM P.O., MANJERI,  
MALAPPURAM DISTRICT, PIN-676123,  
REPRESENTED BY ITS MANAGER.
7. SAINABA A.S., SRAMBIKCAL HOUSE,  
PUTHOOR P.O., KOTTACKAL, MALAPPURAM  
DISTRICT-679124.

Writ Petition (criminal) praying inter alia that in  
the circumstances stated in the affidavit filed along with  
the WP (Crl.) the High Court be pleased to direct the  
respondents 1 to 5 to produce the detenue before this  
Hon'ble Court and this Hon'ble Court may kindly be  
pleased to hand her over to the paternal custody and

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control of the petitioner, as an interim measure, pending disposal of this Writ Petition (Crl.).

This petition again coming on for orders upon perusing the petition and affidavit filed in support of WP (Crl.) and this Court's order dated 28.11.2016 and upon hearing the arguments of SRI.C.K.MOHANAN, Advocate for the petitioner, GOVERNMENT PLEADER for R1 to R4, SRI. M. A JAY Advocate for R5, SRI.P.RAVINDRAN (SENIOR ADVOCATE) along with SMT.LIZA MEGHAN CYRIAC, Advocate for RS and of SRI. P.K.IBRAHIM, Advocate for R7, the Court passed the following:-

K. SUREISSDRA MOHAN & MARY JOSEPH, JJ.

W.P. (Crl.) No. 297 of 2016

Dated this the 5<sup>th</sup> day of September, 2016.

ORDER

Surendra Mohan J

The detainee is present in Court, produced according to our earlier order. Separate counter affidavits have been filed by the 6<sup>th</sup> and 7<sup>th</sup> respondents.



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It is stated by the counsel for the detainee that the detainee has also filed an affidavit. However, the same has not yet reached us.

2. According to the Government Pleader, the investigation has progressed, but, has not been completed. He seeks two weeks further time to complete the investigation and to make available to us the results thereof. The learned Government Pleader also submits that some time is required to obtain details from the Passport Office regarding whether the detainee has been issued with a Passport or not. It is stated that, the details of the persons mentioned in the petition are also being gathered and that, the scenario would be clear only on completion of the investigation.
3. In view of the above, two weeks further time is granted for completing the investigation. The Passport Authorities as well as the Bureau of Immigration shall also co-operate with the investigation by providing the necessary details asked for by the Investigating Officer so as to

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complete the investigation without further delay.

The detenue shall continue to reside at the  
Santhinikethan Hostel at Pachalam.

Post on 22.9.2016. The detenue shall be  
produced on that day.

Sd/-

K.SURENDRA MOHAN, JUDGE

Sd/-

MARY JOSEPH, JUDGE

/true copy/

ASSISTANT REGISTRAR

Annexure-121  
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BEFORE THE HONOURABLE HIGH COURT OF KERALA  
AT ERNAKULAM

W.P.(Crl.) No. 297 of 2016

Asokan K.M. : Petitioner

v.

Superintendent of Police & others : Respondents

**MEMO SUBMITTED BY THE SENIOR GOVERNMENT PLEADER**

It is submitted that the report of the Deputy Superintendent of Police, Perinthalmanna dated 22.09.2016 in W.P.(Crl.) No. 297/2016 is produced herewith which may be accepted on file.

Dated this the 22<sup>nd</sup> day of September, 2016.

sd/-

N. NARAYANAN  
SENIOR GOVERNMENT PLEADER



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Office of the  
Deputy Supdt. Of Police  
Perinthalmanna, dated 22.09.2016.

From

Deputy Supdt. Of Police,  
Perinthalmanna.

To

Sri.Ramanandan  
Government Pleader  
Advocate General Office, Ernakulum.

Sir,

Sub:- Writ Petition (Crl.)No. 297/2016 report  
submission - reg.

Ref:- Perinthalmanna P.S. Crime No.21/16 u/s 57 K.P. Act reported  
on 8.1.2016 altered. into Sec.153(A),295(A),107 IPC on  
11.1.2016.

:: :: ::

I am working as Deputy Supdt. Of Police, Perinthalmanna 01-08-16  
onwards

I am submitting the following facts for your kind consideration and  
favourable order.

The gist of the case is that Akhila D/o Ashokan , was reported to  
be missing on 7.1.2016 at 11.00 hrs .

It is submitted that. in this connection on 8.1.2016, father of Akhila  
Sri. Asokan, S/o. Mani, age 56/16, Karattu House,( Devikriba ) T.V.Puram,  
Vaikom, Kottayam District preferred a complaint before Deputy Supdt. Of  
Police, Perinthalmanna stating that Akhila was missing.The complaint  
was forwarded to Sub Inspector of Police, Perinthalmanna for further  
necessary action, which was got registered as Crime No. 21/16 u/s 57 of  
K.P Act. The Sub Inspector of Police, Perinthalmanna started investigation  
by constituting a special investigation team. During the investigation  
statements of Akhila's friend Jaseena (daughter of Aboobacker Perayil) and  
Aboobacker(A1) were got recorded. The Sub Inspector also collected the  
call details and tower locations of Mob. Nos. 8129074447 and 9446544471

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which were used by missing Akhila. On investigation it was revealed that Akhila and Jaseena were room-mates at a rented house at Salem in Tamil Nadu while studying at Sivaraja Homeo Medical College for BHMS Course. There were 4 other students also in that house. Out of these students 4 belonged to Hindu Community and 2 hailed from Muslim Community. Akhila was a close friend of Jaseena and she used to visit Jaseena's house at Cherakkapparambu and occasionally stayed there. Her friendship with Jaseena and her occasional visit to Jaseena's house and the customs and rituals carried out by Jaseena, being a muslim attracted Akhila to Islam religion and she developed an interest to join Islam, for which she requested the help of Jaseena's family. Accordingly, Akhila and Aboobacker (Jaseena's father) approached one Notary Public Adv. Sreejith of Perinthalmanna and prepared an Affidavit for her conversion to Islam stating that she is accepting Islam Religion and intended to live as a believer of Muslim Community. Subsequently they reached at KEAM, Kozhikkode (Muslim Conversion Centre) and also at Sathya Sarani, at Manjeri on 4.1.2016.

It is submitted that, as per the direction of District Police Chief, Malappuram the further investigation of this case was conducted by Inspector of Police, Perinthalmanna from 9.1.2016. Accordingly he searched for the girl, who was missing at that time at various lodges of Kozhikkode and neighbouring places. He verified the details of phone contacts made by Akhila. Subsequently search was conducted at Mangalore and one Sherin Shahana and her husband Fasil Musthafa at Mangalore were traced. According to their statement it is learnt that they have come in contact with Akhila through one Shanib. Shanib is a MBA student at Bangalore who is an internet friend of Akhila and also a relative of Sherin. Sherin stated that on 10.9.2015 she met Akhila at Ernakulam. She re-named Akhila as 'Aasiya' and also prepared an affidavit in the presence of Notary Public Adv. Devi.A.C. of Ernakulam.

During the course of investigation police recorded the statement of Asokan, father of Akhila. He stated that on 6.1.2016 Akhila reached the college at Salem wearing dress as Muslim woman used to.



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On getting this information Akhila's mother gave a hoax call to Akhila that her father has met with an accident and told her to come back to Ernakulam. But Akhila came to know that it was a wrong information and she did not return home. She contacted Sathyasarani and alongwith Jaseena reached at KSRTC Bus stand Malappuram as directed from Sathyasarani. There she met Sainaba W/o Aliyar, Srambikkal Arichol, Kottakkal. Then they proceeded to the house of Jaseena at Gherakkaparamba. Next day pretending that she was returning to Salem she boarded bus to Palakkad and got down near KSRTC Bus stand Perintalmanna where she met Sainaba as arranged and went with her to her house at Kottakkal. On getting information that Akhila has not returned home, from Archana (one roommate of Akhila at Salem) Akhila's parents went to the house of Jaseena, from where they were informed that Akhila was missing. Accordingly Asokan preferred a complaint and a case in Crime No. 21/16 u/s 57 of K.P Act was got registered as mentioned.

During the investigation it was revealed that Jaseena's father Perayil Abdoackker has induced Akhila to join Islam and by the way he has caused promotion of enmity between Hindu and Islam religion affecting maintenance of communal harmony. Hence the sections of the case were altered into 153(A), 295(A), 107 IPC on 11.1.2016 and thereby he was arrested on the same day and produced before Hon. Court.

Subsequently Ashokan father of Akhila filed a Habeas Corpus (writ petition (Cri.) No. 25/2016 before the Honourable High Court. As per the direction of State Police Chief vide COB message No D9/6119/PHQ/2016 dtd 12.01.2016 and Vide Order No. D1/2953/16 MM dated 12.1.2016 and the then District Police Chief Malappuram former Deputy Supt. Of Police Perintalmanna took up the investigation of this case on 13.1.2016. The investigation revealed that the above mentioned Sainaba of Ponmala and her husband Aliyar had connection with the missing of Akhila. On enquiry they both were found missing. Sainaba Teacher is an active worker of National Woman Front and her husband is an activist of Popular Front of India.



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In connection with this search was conducted at the house of Nazaruddeen Elamaram, the former President of SDPI State Committee since he had phone contact with Sainaba and Ali. Search was also conducted at the residence of Basheer, Treasurer of NDF State Committee at Kalpakancheri. In response to the Habeas Corpus Akhila herself appeared before the Hon'ble High Court of Kerala on 18-01-2016 and on 19-01-2016 she submitted that she likes to stay with Sainaba and is intending to join the institution named "Sathya sarani" at Manjeri to pursue Islamic Studies. She also stated that she embraced Islam out of her own will and no compulsion or threat was there from anybody. The Hon'ble High Court directed the Investigating Officer to record the statement of Akhila. She stated before the investigating Officer that she converted to Islam voluntarily and there was no compulsion or threat from anybody. The Honourable High Court released her at her own liberty.

Further on 17-08-16 Ashokan, father of Akhila again filed a writ petition before Hon'ble High Court as (Cri.)No. 297/2016 stating that his daughter Akhila is being tried to be taken away to Syria to join ISIS and he suspects that there is chance of a fabricated false marriage with an extremist of Islamic States organization. Ashokan prayed before the Court to take emergency steps to prevent her from being taken out of the country. Accordingly thorough search was conducted by the Police. As a result Akhila herself appeared before the Hon'ble High Court of Kerala on 22-08-2016.

Again before the Hon'ble High Court she stated that she was not interested to accompany her parents. Hence the Hon'ble High Court directed to accommodate Akhila in SNV Sadanam at Ernakulam. But due to non availability of accommodation at SNV Sadanam Akhila was accommodated in Shanthi Bhavan Hostel Ernakulam.

It is submitted that as a part of verification again statement of Akhila was recorded on 26-08-16. According to her statement she has embraced Islam religion out of her own will and no compulsion or threat was there from anybody. While interacting with her it is revealed that she



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has been taught a lot of things with regard to "Hell" and she has been made to believe that in order to escape from reaching "Hell" after one's death Islam is the only solution for human kind. Again she believes that Islam will help her to reach heaven after death. She explains that this factor attracted her to join Islam. On verification it is also learnt that she doesn't possess a passport till this date. During the enquiry the only chance of her leaving the country is obtained from the fact that Sherin Shahana, one of her contact had once offered her to take to Yemen, if she reaches Mangalore. According to her at present she has no intention to join Islamic states. When she was explained about the plight of the persons who joined Islamic states from Kasargode and Palakkad, she opined that they have joined Islamic states at their own will and at present she had no interest in it. Other than Sherin Shahana's invitation to go to Yemen no other person who has come across during her missing time has talked to her about joining Islamic states. During the time of her appearance on 22.8.16 she was found in possession of cell number 9446544471. On verifying it is learnt that the sim is issued to Akhila. The activation date of this sim card is on 04/01/2016. The CDR of this number was collected for the period from 01-06-2016 to 30-08-2016. The contact numbers were verified and nothing unusual was detected. On investigation it is found that from 21.1.16 to 21.3.16 Akhila stayed at Sathya Sarani Manjeri. Then from 21.3.2016 to 17.8.2016 with Sainaba and family at Sainaba's house at Arichole near Kottakkal. On enquiry when search was conducted at Sathya Sarani and at the house of Sainaba, Akhila and Sainaba took shelter in the house of one Memadan Ali, Chakkunkulam, Kizhissery from 17.8.2016 to 22.8.2016.-

A detailed enquiry was conducted about the 6<sup>th</sup> respondent and 7<sup>th</sup> respondent. The 6<sup>th</sup> respondent is Markazul Hidaya Educational Charitable Trust, better known as 'sathyasarani', which is situated near Charani, Manjeri, Malappuram District. It is run by a trust which has got 9 members and registered under the Board of Trust Act. The Registration no. of the Institution is 214/2008. The institution occupies one Acre 30 cents in which three buildings are seen erected. At the time of enquiry in total there are 52 inmates in the institution for the purpose of Islamic studies. Out of which 16 members (Male - 9 and Female - 7) belongs



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to Christianity, 28 members are from Hindu religion ( 11- Males, 17 Female) 8 members from Muslim community ( 5 male, and 3 Female). Generally it is known as an institution to impart Islamic studies among the interested person of different religion. There is 22 Administrative staff in that institution, they include Manager, Assistant manager, Registration officer, Accountant, teachers, cooks, securities and office boys. The inmates are given 55 days course. Male and Female inmates are kept apart and it has got boarding facilities.

With regard to 7<sup>th</sup> respondent she is a woman named Sainaba aged 44 years, she is residing along with her husband and two kids at Srmbikkal house in Arichole, near Kottakkal. Her native place is Koombanpara at Adimaly of Idukki District. After marriage she has reached at Malappuram district and resided at various places and now residing at Srmbikkal house at Kottakkal. Her husband's name is Aliyar, he belongs to Kothamangalam. Sainaba's academic qualification is polytechnic diploma in Electrical Engineering from Polytechnic Chelad. Though she claims that she is B tech graduate, nothing to that effect was produced by her in order to prove it. At present she is jobless and leading life of a house wife. She is a usual visitor of Sathya Sarani, where she used to conduct counseling as requirement comes. The enquiry has also revealed that the 7<sup>th</sup> respondent is involved in a similar case registered at Cherppulassery Police Station as Crime No.510/2016 U/s 57 of KP Act altered into section 365,344 r/w 34 IPC. Athira, a 21year old girl, who was found missing on 13-06-2016. Later she appeared before the Honourable High Court in response to a Habeas Corpus ordered by the Honourable High Court. She was also given counseling by the 7<sup>th</sup> respondent as in this case. Sainaba also used to conduct counseling at NWF (National Women Front) office at Kozhikkode. At present she holds the post of National president of NWF. Also she is the member of Kerala State Legal Service Authority. She produced a copy of certificate which is attached along with. It shows she had undergone a 2 days course on Transactional Analyst Training. She claims that she has undergone another course named ICTA regarding counseling and psychotherapy had completed, but no certificate is in her possession. She has worked as teacher in different Un-aided High schools in Malappuram District.




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Enquiry was conducted at Passport office Malappuram. The Passport Officer replied that no passport has been issued to detainee Akhila and the passport number of 7<sup>th</sup> respondent is not available in the system. Aliyar (husband of 7<sup>th</sup> respondent) has obtained passport. The passport No. is F2377876 (date of issue 15/4/2005). The passport number of Aboobacker Perayil is No. B3874815 (Accused in this crime). On enquiry 7<sup>th</sup> respondent Sainaba has obtained passport (No. N753174) in the year 1993 and it is expired. Sainaba and Aliyar have visited Saudi Arabia for Hajj in 2000. Aboobacker visited Saudi Arabia for Hajj in 2001. With regard to the embarkment and disembarkment details of Akhila, Sainaba, Aliyar and Aboobacker, none of them has visited the Gulf countries since the year 2005. As per direction of the Honourable Court, the detainee was produced before the Hon. Division Bench on 05-09-2016. After hearing both sides, the Hon. High Court has ordered to produce the detainee before the Hon. High Court on 22-09-2016. Accordingly, she is being produced for kind necessary action.

All the facts stated above are true and correct to the best of my knowledge and belief.

Dated this the 22<sup>nd</sup> day of September 2016



  
 22/9/16  
 M.P. Mohanachandran  
 Deputy Superintendent of Police,  
 Perinthalmanna Sub Division