

Sl.No.	Particulars	Page Nos.
1.	CRL.M.P. NO. OF 2017: Application for Impleadment along with affidavit	

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRL.M.P. OF 2017**

**IN
SPECIAL LEAVE PETITION (CRL) 5777 OF 2017**

IN THE MATTER OF:

Shafin Jahan ... Petitioner

Versus

Asokan K.M. &Ors. ... Respondents

AND IN THE MATTER OF:

Kerala Women's Commission,
Near Lourdh Church
Pattom, PMG
Thiruvananthapuram -04
Represented through its Chairperson
M.C. Josephine,

.....Applicant

APPLICATION FOR IMPLEADMENT

To

The Hon'ble Chief Justice of India
And His Companion Justice of the
Supreme Court of India.

The humble petition of the
applicant above named.

MOST RESPECTFULLY SHOWETH

1. It is respectfully submitted that the Applicant herein is the Kerala Women's Commission represented through its Chairperson Mrs .M.C. Josephine. The Kerala Women's Commission is constituted under the Kerala Women's Commission Act, 1990 (Act 17 of 1995) to improve the status of women in the State of Kerala and to enquire into unfair practices affecting women and for matters connected therewith or incidental thereto.

2. That the above Special Leave Petition has been filed by the Petitioner against the Judgment of the High Court of dated 24.5.2017 in WP (CrI) No. 297 of 2016, whereby the High Court has allowed the writ of Habeas Corpus filed by the Respondent No.1 herein. It is submitted that the above Special Leave Petition was listed before this Hon'ble Court for hearing on 04.08.2017 and as per the order dated 04.08.2017, this Hon'ble Court was pleased to issue notice to the Respondents.
3. It is submitted that the present application is filed for a limited purpose. It is respectfully submitted that the only concern for the Commission is the well being of a woman in the State of Kerala and inquire whether she has been subjected to any unfair practice or any denial of her basic civil rights.
4. It is submitted that the Commission has received several written complaints that the woman in question is detained in her house and she has been denied her civil rights in the light of continued confinement in her house.
5. It is submitted that the Commission, as per Section 17 of the Act, is empowered to inquire into any 'unfair practice' (a) on receiving a written complaint from any woman alleging that she has been subjected to any unfair practice or on a similar complaint from any registered women's organisation, (b) on the Commission's own knowledge or information (c) on any request from the Government. However, in view of the fact that the matter is subjudice and is seized by this Hon'ble Court, the Commission is

seeking permission from this Hon'ble Court to inquire into the well being of the women by members of the Commission by visiting the woman concerned ,if so desired by this Hon'ble Court, and submit a report before this Hon'ble Court. It is submitted that the Commission's limited intervention is sought in the present case is purely for the reason that this statutory body does not abdicate its duties/functions thereby failing the very objective and purpose of the enactment which constituted the Commission.

6. It is submitted that Section 16 of the Act states the functions of the Commission. The Statute as per Section 16 (1), (2), (7) and (10), interalia, state the functions of the Commission as follows:

Section 16 (1) of the Act :

Inquire into any unfair practice, take decision thereon and to recommend to the Government the action to be taken in that matter

Section 16 (2) of the Act:

Cause investigations to be made by the Director on issues of importance concerning women and issues concerning unfair practice and to report thereon to the Government on the corrective measures to be taken.

Section 16 (7) of the Act:

Empower the Director to recommend to the appropriate authority to take prosecution proceedings in respect of offences committed against women under any Statute providing for penalty for violation of the provisions of such statute.

Section 16 (10) of the Act:

Call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal.

'Unfair practice' is defined under Section 2 (i) of the Act

'Unfair practice' means any distinction, exclusion or restriction made on the basis of sex for the purpose of or which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women of fundamental constitutional rights or of human rights or of fundamental freedom in the political, economic, social, cultural, civil or any other field or the infringement of any right or benefit conferred on women by or under the provisions of any law for the time being in force or the mental or physical torture or sexual excesses on women.

7. It is submitted that as per the impugned judgment, the woman in question, Akhila @ Hadiya has been left to the custody of her parents and police has been directed to take care of her safety and to keep surveillance for her continued safety. It is further submitted that there are no restrictions imposed by the Judgment as regards any kind of interaction/communication with Akhila @ Hadiya by any person. But in the instant case, the Commission has been receiving representations and written requests through social media and also from many women's organisations and concerned citizens stating that Akhila @ Hadiya has been denied her basic civil rights and has been kept under house arrest violating basic human rights, to which she is legally entitled to. It is submitted that Section 17 (1)(b) of the Act which clearly states that the Commission shall inquire into any unfair practice on its own knowledge or information.

8. In view of the above facts, it is respectfully submitted that the Kerala women's commission essentially has the locus standi to inquire into unfair practices, practiced against a woman on the basis of its own knowledge or information. It is submitted that in the instant case, the issues as regards Akhila @ Hadiya have been brought to the knowledge and information of the Women's Commission through various representations and requests from socially responsible citizens of the State.

9. It is the respectful submission of the commission that Section 4 of the Act, *'save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force, except to the extent the provisions of the other law are inconsistent with the provisions of the Act'*.

10. In view of the above submissions, this Hon'ble Court may have kind indulgence to implead the Kerala Women's Commission in the above Special Leave Petition and may be pleased to issue directions permitting the Kerala Women's Commission to visit Akhila @ Hadiya at her present address along with a qualified medical practitioner and submit a report before this Hon'ble Court, if directed so, in the interest of justice.

PRAYER

In view of the above submissions, it is most respectfully prayed this Hon'ble Court may graciously be;

- a) Pleased to pass an order impleading the Applicant as a party respondent in the abovementioned Special Leave Petition.
- b) Pleased to pass such other or further orders as this Hon'ble Court may deemed fit and proper in the facts and circumstances of the case.

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

FILED BY

New Delhi
Date:03.10.2017

P.V. DINESH
Advocate for the Applicant

