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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Special Leave Petition (Criminal) 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 at Ernakulam in
WP (CrI) No. 297 of 2016)

IN THE MATTER OF:-

Shafin Jahan

... Petitioner

Versus

Asokan K.M. & Ors.

... Respondents

PAPER BOOK

(For Index Please See inside)

I.A. No. ⁵³⁷⁶⁴ of 2017

(Application for permission to file Special Leave
Petition)

I.A. No. ⁵³⁷⁶⁶ of 2017

(Application for exemption from filing certified copy)

I.A. No. ⁵³⁷⁶⁷ of 2017

(Application for permission to file additional
Documents)

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I.A. No. 312 of 2017

(Application for Direction)

Advocate for the Petitioner:: MS. PALLAVI PRATAP

HARIS BEERAN
Advocate
B-13, L.G.F., Dhawan Deep
6, Jantar Mantar Road
New Delhi-110001

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE P.N. RAVINDRAN
&
THE HONOURABLE MR. JUSTICE A. MUHAMED MUSTAQUE

Thursday, the 22nd day of September 2016/31st 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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM DISTRICT. PIN-689 001.
3. INSPECTOR GENERAL OF POLICE,
ERNAKULAM RANGE, KOCHI, PIN-682 031.
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., SRAMBIKAL 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 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 05/09/2016 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 SRI. P.K.IBRAHIM, Advocate for R7, the Court passed the following:-

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P.N.RAVINDRAN & A.MUHAMED MUSTAQUE, JJ.

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

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Dated this the 22nd day of September, 2016

ORDER

P.N.Ravindran, J.

Call on 27.9.2016 for further hearing. Registry to incorporate the application filed by the detinue seeking impleadment as the additional 8th respondent. Petitioner to file objections, if any, to the application in the meanwhile. The parties shall be present on that day. Respondents 1 to 4 shall on that day produce the detinue in this court. It will be open to the parents of the detinue, if they so wish, to meet her in person and interact with her at Santhinikethan Hostel, Pachalam where she shall continue to reside, until further orders.

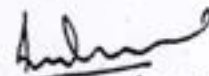
Sd/-

P.N.RAVINDRAN, JUDGE

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

/true copy/



ASSISTANT REGISTRAR

T/C

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE K.SURENDRA

MOHAN

THE HONOURABLE MRS.JUSTICE MARY JOSEPH

Monday, the 27th day of September 2016/14th 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.
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 detinue 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 22/09/2016 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, SRI. P.K.IBRAHIM, Advocate for R7 the Court passed the following:-

P.N.RAVINDRAN & A.HUHAMED MUSTAQUE, JJ.

W.P.(Crl).No.297 of 2916

Dated this the 27th-Day-of September, 2016

O R D E R

P.N.Ravindran, J

The petitioner is the father of Ms.Akhila. The prayer in this writ petition is to issue a writ of habeas corpus commanding respondents 1 to 5 to produce the petitioner's daughter in this court and to accommodate her in a government institution for women, if she is

unwilling to go with him. The petitioner had earlier filed W.P.(Crl). No.25 of 2016 in this court praying for a writ of habeas corpus commanding the respondents therein to produce his daughter, Ms.Akhila Asokan in this court and to set her at liberty. The substance of the averments in that writ petition was that the petitioner's daughter is being illegally detained by respondents 4, 7 and 8 therein and their henchmen. The said writ petition which was presented on 13.1.2016, came up for consideration before a Division Bench of this court on 14.1.2016 and on that day, the Division Bench directed the learned Government Pleader to get instructions from respondent 5 and 6 therein, namely, the Circle Inspector of Police, Perinthalmanna and the Sub Inspector of Police, Perinthalmanna as regards the action taken on Ext.PI complaint filed in that writ petition and with respect to the enquiry/investigation if any made to trace out Ms.Akhila. The writ petition thereafter came up for consideration on 19.1.2016. On that day, when the writ petition was taken up, the petitioner's daughter appeared in person. She also filed an application I.A. No. 792 of 2016 in W.P.(Crl).No.25 of 2016 seeking

impleadment as the additional ninth respondent in the writ petition. She had in the affidavit filed in support of the impleading petition averred that she left her home

on 2.1.2016 with a resolution to accept Islam and that she has embraced Islam. During the course of the interaction also she reiterated her stand in the said affidavit. She had also stated before the Division Bench that she is not willing to go back to her parental honrte. The Division Bench accordingly held that this cannot pass an order directing her to be forcibly taken to the house of the petitioner. Smt.A.S.Sainaba of Srambickai House, Puthur P.O. Kottackal in Malappuram District (seventh respondent in the instant writ petition) who was present in this court had expressed her willingness to accommodate the petitioner's daughter. The petitioner's daughter was accordingly sent along with Smt.A.S.Sainaba. This court directed that the petitioner's daughter need be produced only on further orders from this court. This court thereafter heard and disposed of the writ petition on 25.1.2016. By that

judgment, this court held that as the petitioner's daughter is not under illegal confinement and she is staying at Markazul Hidayah Sathyasarani Educational & Charitable Trust at Karuvambram, Manjeri in Malappuram District, on her own wish and will, no circumstance exists warranting the issuance of a writ of habeas corpus. The writ petition was accordingly disposed of in the following terms:

"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 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."

2. In the instant writ petition which was filed on 16.8.2016, the petitioner has prayed for the following reliefs:

- i) 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;
- ii) issue any other order, direction this Hon'ble court deems fit and proper in the nature and circumstances of the case."

The main contention raised in the instant writ petition is that the petitioner's daughter is likely to be taken to Syria for joining the ISIS.

3. When the writ petition came up for consideration before a Division Bench of this court on 17.8.2016, the Division Bench passed the following order:

"The Government Pleader takes notice for respondents 1 to 4. Advocate M. Ajay takes notice for the 5th respondent. Issue notice to respondents 6 and 7 by speed post. Respondents 1 to 4 are directed to produce the detinue in court on 22.8.2016. In view of the allegation made by the counsel for the petitioner that she is likely to be taken out of the country at any moment, respondents 1 to 4 are directed to keep her under surveillance and ensure that she is not taken out of the country without further orders from this court.

Post on 22.08.2016."

4. When the writ petition was taken up for hearing on 22.8.2016, the learned Government Pleader submitted that the police could not trace out the petitioner's daughter. The writ petition was

therefore adjourned to 25.8.2016. After the said order was passed, the detenue appeared in person. She also filed an application seeking impleadment as an additional eighth respondent (I.A.No.14827 of 2016). A Division Bench of this court interacted with the petitioner's daughter. After interacting with her, the Division Bench passed the following order on 22.8.2016:

"After we had passed our earlier order today, the detenue has come to Court accompanied by the 7th 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 B.H.M.S. 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 7th 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 patents 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 7th 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, Emakularn 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 detainee 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 detainee shall be produced on that day."

5. The writ petition thereafter came up for hearing on 1.9.2016. On 1.9.2016, after hearing learned counsel on both sides, this court directed the petitioner's daughter to be produced on 5.9.2016. On 5.9.2016, the writ petition was adjourned to 22.9.2016. On 22.9.2016, when the writ petition

came up for consideration before us, we adjourned the writ petition to today. We also directed that the petitioner's daughter shall continue to reside at Santhinikethan Hostel, Pachalam where she was accommodated pursuant to the earlier order passed in the matter. We also permitted the parents of the detinue to meet her in person and interact with her. Today, when the writ petition was taken up during the pre-lunch session, the petitioner and his wife, Smt.Ponnamma T.P. were present. The petitioner's daughter Ms.Akhila was also present. We interacted with the petitioner, his wife and their daughter. We also heard learned counsel on both sides at length. We also permitted the petitioner and his wife to interact with their daughter Ms.Akhila. Ms.Akhila stated in uncertain terms that she does not want to go with her parents. She also submitted before us during the post lunch session, a statement in writing dated 27.9.2016 wherein she has stated that for no fault of her for the last 35 days she is in the custody of this court and she is not permitted to interact with

anyone else. She has in the said statement also stated that the writ petition has been filed by her father at the instance of his lawyer. The original of the said statement is incorporated in the records. She stated during the course of the interaction that she does not wish to go with her parents or reside with them at her parental home and that she may be permitted to go and reside at the place of her choice^" As on today the petitioner's daughter does not possess a passport. Police have also stated in their various statements that there is nothing to indicate that the petitioner's daughter is likely to be taken to Syria. 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. Akhlia 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, she 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 Deputy Superintendent of Police, Perinthalmanna shall

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cause production of the petitioner's daughter on that day. 1% will be open to the parents of Ms.Akhila to meet and interact with her. Handover to both sides.

Sd/-
P.N. Ravindran, Judge

Sd/-
A. Muhamed Mustaque, Judge

/True Copy//

Assistant Registrar

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Annex-124

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

W.P.(CRL).NO.297 Of 2016

Asokan.K.M

:

Petitioner

Vs

Superintendent Of Police & ors

:

Respondents

REPLY AFFIDAVIT FILED BY THE PETITIONER TO THE COUNTER
AFFIDAVIT OF THE 7TH RESPONDENT

I, Asokan.K.M, aged 57 years S/o. Mani, residing at Karattu (Devi Kripa) house, T.V. Puram P.O, Vaikom, Kottayam district, do hereby solemnly affirm and state as follows.

1. I am the petitioner in this Writ Petition (Crl). I am conversant with the facts of this case and as such I am competent to swear this affidavit. All the averments contained in the counter affidavit of the 6th and 7th respondents except that those are specifically admitted or otherwise dealt are hereinafter denied.
2. All the averments contained in 2nd paragraph of the counter affidavit of the 7th respondent are not correct and hence denied. I have filed this writ petition only to see the release my daughter from the illegal custody of the respondents 6 and 7.
3. All the averments contained in paragraph numbers 4 to 9 of the 7th respondent are not completely true and hence denied. The certificates produced by the 7th respondent, even if those are genuine, the same are being used only as a cover-up of the illegal activities of the respondents 6 and 7. What are shown as the aims and objects of the 6th respondent organization do not matter, the activities of that organization are to be tested to know whether it is functioning in accordance with the aims and objectives. From the activities of the 6th and 7th respondents it can be seen that they are acting against the national integration, communal amity, social harmony, social justice, democracy etc.
4. All the averments contained in paragraph numbers 9 to 17 of the 7th respondent are not completely true and hence denied. In answer to the quoting in paragraphs 9 to 17 it is submitted that the meanings given to the verses quoted from Quran given by the 7th respondent are not true and the same are distorted. The word Allah is derived from

the Arabic words 'al' means 'the' and 'ilah' means God or something to be worshipped. The word Allah is the perfect description of the one god of monotheism for Jews, Christians and Muslims. Allah is the same word used by Christian Arabs and Jewish Arabs in their Bible centuries before Islam came. Allah/God means the only one to be worshipped. The concept of Hinduism is Advaita which means non dualism or the truth/god is one and the same is being called in different names by intellectuals. 'Ekam sad vipra bahudha vadanti' is a famous quoting from Rig Veda which means 'one alone exists, sages call it by various names'. The word Brahman is synonymous to God. According to the Advaita Vedanta tradition the four Upanishadic statements indicate the ultimate unity of the individual (Atman) with Supreme (Brahman). These statements are called the four Mahavakyas.

The four Mahavakyas are:

1. **prajñānam brahma** - "Prajñāna is Brahman", or "Brahman is Prajñāna" (Aitareya Upanishad 3.3 of the Rig Veda)
2. **ayam ātmā brahma** - "This Self (Atman) is Brahman" (Mandukya Upanishad 1.2 of the Atharva Veda)
3. **tat tvam asi** - "Thou art That" (Chandogya Upanishad 6.8.7 of the Sama Veda)
4. **aham brahmāsmi** - "I am Brahman", or "I am Divine" (Bṛhadaranyaka Upanishad 1.4.10 of the Yajur Veda)

Apart from the 4 major mahavakyas there are other statements also.

- i) **brahma satyam jagan mithyā** - Brahman is real; the world is unreal - Vivekachudamani
- ii) **ekam evadvitiam brahma** - Brahman is one, without a second - Chāndogya Upanishad
- iii) **so 'ham** - He am I - Isha Upanishad
- iv) **sarvam khalvidam brahma** - All of this is brahman - Chāndogya Upanishad 3.14.1

According to Quran also, Allah is all pervading and omnipresent. Therefore the concept of God in Hinduism and Islam is one and the same. The difference between Hinduism Islam is God alone and God and God's respectively. In Sufism also the concept is Anal haq means God and I are one and the same.

5. The word Islam is derived from the Arabic root "S L M": which means peace, purity, submission and obedience. In the religious sense, Islam

means submission to the will of God and obedience to His law. So all the spiritual aspects of the word Allah and Muslim are to be understood as God and its believers. It is pertinent to note that there was no organization or religion by name Islam during the lifetime of Prophet. Creating a religion by the name Islam and converting the believers of other religions or schools into Islam are all alien to Quran and the teachings of prophet. The activities of the 6th and 7th respondents by converting others into Islam are Anti-Quranic and Anti-Islamic. Ext.R7(g) itself shows that her organization is functioning only for religious conversion in such a way torpedoing the secular fabric of our country. The 7th respondent is not a true Muslim and not a true follower of Qur'an. The quoting of the Holy Quran do not mean all non Muslims are being strayed from his path. Prophet Muhammad is the last Prophet according to Islam. That means before him there were Prophets through whom Allah/God conveyed his messages for humanity. The path of god means the paths paved by the prophets and not by prophet Muhammad alone. This kinds of wrong interpretations of Quran is the problem which the humanity is facing now. All religions are originated from various Holy-Men/Prophets. What Allah says is that all should be brought within the way of worship laid by any of his messengers and not by one messenger.

6. All The averments contained in paragraph 18 of the Counter Affidavit are not completely true and hence denied. The detenu in WPC 25/2016 was got impleaded as the 9th respondent at the instance of the 6th and 7th respondents in this case. In Exhibit R7(e) the detenue is only a name lender and the contents are not that of the detenue. Once a person like the detenue was brainwashed as done in this case, they would be repeating whatever the persons who won-over them say as a parrot. Ext R7 (e) certificates are the documents created for the sake of this case only. The copy of the inland letter produced by the 7th respondent shows that after getting the letter got written by the detenue a photocopy of the same had been taken by the 7th respondent and kept it by her only with an intention to convince others that the detenue had written that letter on her own volition and she was not under any illegal detention. This is the case of copies of the affidavits and the letter sent to the police officer as well so as to create an impression that those affidavits and letters are written by the detenue voluntarily. Even in the inland letter what she wrote is that she apprehends that she could not lead a life in accordance to

her beliefs and she further says that if her life is secured as per her beliefs and her father is ready to accept her, she would come to her father.

7. I am making it clear that I have no objection in the detenue doing worship and following the other religious practices in accordance with Islamic beliefs. I will definitely afford all facilities to the detenue to perform all the rituals of Islam in my house. I came to understand a true Muslim should follow five things which are known as the five pillars of Islam and the same are the following.

- i) Faith:- the first part is to believe that 'there is no true god (deity) but God(Allah) and Muhammad is the messenger of God'.
- ii) Salat:- Salat consists of five daily prayers according to the Sunna; The names of prayers are Fajr(dawn), Dhuhr (noon), Asr (afternoon), maghrib(evening), and isa (night).
- iii) Zakat:- Zakât consists of spending a portion of one's wealth for the benefit of the poor or needy, like debtors or travelers.
- iv) Sawm: Fasting in the month of Ramadan.
- v) Hajj:- The hajj is a pilgrimage which happens in the Islamic month of Dhu Al-Hihhah.

I will not stand in the way of the detenue performing all these activities and I will extend all kind of help for performing all the above said religious activities.

8. The averments in paragraph 19 shows that she was brought up as an atheist as her father was an atheist. So she could be easily trapped by the workers of the Campus Front, the student wing of the Popular front of India.
9. The averments contained in paragraph 20 to 37 are not completely true and hence denied. The detenue was taken to Sathya Sarani as per the pre-planning of the respondents 6 and 7 and the room mates who instigated the detenue to convert to Islam. Sathya Sarani is not a place where true Islamic teaching is being imparted. It is only a place for a temporary stay of the newly converts who will be made use by the fundamentalists for involving in their inhuman and illegal activities. After I came to know the detenue was under the illegal custody of the 6th and 7th respondents, I filed WP (CrI) 25/2016. As she was under the influence of the respondents 6 and 7, this Hon'ble court found that she was a major and as such she can select the place where she can be and the writ petition was dismissed.

10. According to the news report of the On-line News website "Marunadan Malayali" dated 22/10/2016 the women and minor girls who had joined ISIS in Syria are being used as sex slaves by ISIS activists. Initially the women in the tribal areas of Syria were being used as sex slaves. But due to the stiff resistance from the tribal groups it had become impossible to use the local tribal women for this purpose. It is reported that the majority of tribal women who were used as sex slaves are HIV infected. So these women are being used as suicide bombers. There for they have started to use the migrant women especially from Asian states including India who have come to Syria to join ISIS. Initially they are being employed as cocks and related jobs. But later they are being used as sex slaves. Another news has come out through media on 8-7-2016 that the newly converted Muslims were sent to Syria to Join ISIS Thereafter, on 11-7-2016 and 12-7-2016 the detenu told me that she had also decided to go to Syria but now the plan had been dropped. It is clear that her plan to go to Syria was dropped because of the widespread news that the newly converted Muslims are being sent to Syria to join ISIS.
11. The converts are admitted in Sathyasarani only for a period of 2 months. The detenu was admitted in Sathyasarani on 4-1-2016. Even today she is in Sathyasarani. It is pertinent to note that the detenu is detained by the 6th and 7th respondents to send her to Syria in the event of the dismissal of this writ petition criminal. The respondent came to the police radar only recently when a 21 year old Aparna Vijayan daughter of a widowed defense official from Thiruvananthapuram vanished from her hostel in Kochi. She was converted to Islam and given the name Shahana and married Siyad, an auto riksha driver. Even now the 6th respondent is under the surveillance of NIA. Mother of Aparna Vijayan filed habeas Corpus petition before this Hon'ble Court. Aparna Vijayan appeared before court along with one Sumayya who works with Sathyasarani, the 6th respondent herein. This Hon'ble Court the detenu along with the said Sumayya.
12. It is submitted that the detenu was always under the undue influence of the 6th respondent Conversion Centre. The police officers who are fully convinced about the truth of the averments made a statement before this Hon'ble court. The dictum of the decision reported in Kailas Omkar Vs Smt Maya Devi 1984(2) SCC 91 says that, it is better that no religion shall taught religion till the children attain the age of

maturity so as to select the religion which is most conducive to them. If at all children are taught religion at their infant stage, they should be taught all religions so as to facilitate the selection of appropriate religion for them when they attain majority.

13. The 7th respondent was the National President of the National Women Front which is the women wing of the Popular Front of India. In the conversation between the detenu and myself the detenue told me that a new homeopathic clinic had been opened for and the inauguration of the same had been done and the detenue is practicing there. It is pertinent to note that the detenue has not completed her internship and therefore she is not entitled to practice as a doctor. During the conversation she said that she had decided to go to Syria. But due to the compulsion her room mates in Coimbatore she dropped the plan. But it is not true. The detenue's going to Syria was suspended for the time being because of the spreading of the news that the converted Muslims left to Syria to join ISIS. The respondent 6 and 7 are holding the detenu in their custody.
14. There are intelligence reports regarding ISIS sleeper cells is active in India. Sleeper cell is a group of people inconspicuously remain dormant in a community till activated, by a pre-arranged signal to perform acts of espionage, sabotage or terrorism. Organizations like ISIS are recruiting newly converted persons as sleeper cells. Such a member of a sleeper cell will remain dormant and will live a normal life like any other person by pursuing their profession. Until they are asked to perform a specific task they will remain dormant. The detenue and other similarly converted persons may not be even aware of the fact that they are sleeper agents for terrorist activities in future. The 6th and 7th respondents are arranging the venues and avocations for the sleeper agents. If the detenue is remaining under the custody of the respondents 6 and 7, she might be used as a sleeper agent of ISIS.
15. The India Today online edition has published a news article title "the veiled threat" dated 17-08-2016 regarding the conversions to radical Islam. According to the news Satya Sarani trust, the 6th respondent has involved in the conversion of 21 year old Aparna Vijayan a aero Nautical Engineering Student from Thiruvananthapuram to Islam and she was made to marry an auto rickshaw driver named Siyad. The mother of Aparna Vijayan filed Habeus Corpus before the Hon'ble

high court. Aparna appeared before the court alongwith a lady named Sumayya who works for Sathya Sarani. She told the court that she was converted on her own volition and she was sent along with the said Sumayya. A true photocopy of news article published in India Today Online Edition dated 17-8-2016 is produced herewith and marked as Exhibit P7.

16. The 7th respondent has never contacted me enquiring as to the course of action to be adopted for completing the course of study of the detainee. The detainee telephoned me at the instance of the 7th respondent only for compelling me that I shall not proceed with the case. The detainee is still at the loss of rationale thinking because of the undue influence exerted on her by the 6th and 7th respondents. They are not allowing the detainee to complete her internship by continuing in Shivraj Homeopathic Medical College, Salem as they apprehend if she goes out of their custody they may not be able to use her as directed by their masters. That is why they are very adamant to see the detainee under their control.
17. I being the father of the detainee is entitled to protect her till she is married or put up in a safe place and he is also entitled to have a cordial relationship with her. At my old age I am entitled to get protection and maintenance from her which is my legally recognized right. The mother of the detainee is also entitled to get the same thing from her. Now my wife and myself are under the grip of fear tension and anxiety. We are eventually becoming the victims of untimely dreadful diseases. The right to life includes a healthy life. So it is a fundamental right of my wife and myself to see that the detainee is under their control and protection until she is given in marriage to a suitable person.
18. In this case conversion is done by misleading the detainee that the one and only religion that saves persons from falling into hell is Islam. So it can be seen that the conversion was made against the constitutional provisions of Article 25(1) of the constitution of India. A conversion by way of fraud, force, allurement, misrepresentation is an infringement of the fundamental right of the person who belong to the other religion. It is an act of breach of the public order and affecting the community at large. The conversion of the detainee into Islamic religion by the methods used by respondents 6 and 7 and others had not only affected the religion of my daughter as well.

A true photocopy of the pages of the website of the 6th respondent is produced herewith and marked as Exhibit-P8.

I am entitled to get the rituals conducted on me and her mother on our death. If she doesn't do the same myself and my wife would fall in the hell named 'Pum'. As per religious texts of our religion she is duty bound to do it. She cannot deny the same on the simple reason that she had embraced Islam.

Hence it is humbly prayed that this Hon'ble Court may be pleased allow the writ petition.

All the facts stated above are true and correct

Dated this the 24th day of October, 2016

Deponent.

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 24th day of October, 2016, in my office at Ernakulam.

Advocate

C. Rajendran

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Annexure P-25

BEFORE THE HON'BLE HIGH COURT OF KERALA AT
ERNAKULAM

W. P. (Crl.) 297 of 2016

Asokan K. M.

Petitioner

Vs.

Supdt. Of Police & Ors.

Respondents

COUNTER AFFIDAVIT FILED BY ADDITIONAL 8th
RESPONDENT

I, Akhila Asokan @ Hadiya, aged 24 years, D/o Asokan, how residing at Srambickal House, Puthoor P.O., Arichol, Tirurangadi Taluk, Malapuram district: do hereby solemnly affirm and state as follows:-

1. I am the additional 8th respondent and the alleged detainee mentioned in the above Writ Petition. I 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.

2. I have impleaded myself in the above case 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 mislead into filing this 2nd round of Writ Petition by persons with oblique motives.
3. 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'm not under any illegal detention and I was permitted to live the life of my choice. I was always in touch with my parents, though they refused to come and meet me. Everyday we used to speak atleast 2-3 times. Copy of phone calls made with my father is produced herewith as Exhibit R8(a). Without any further change in circumstances the

above Writ Petition has been filed and the same is not permissible under law.

4. Before advertng to the various averments in the above writ petition this respondent wishes to submit as follows:-

- a. I am a major of 24 years, -having completed my degree course of : Bachelor of Homeopathy (BHMS) from the Shivaraj Homeopathy Medical College at Salem. While doing my BHMS course, I was religion and its practices that I decided to become a practising Muslim. Though my friends, who stayed with me while in college, and their father did not help me for fear of and police action I myself joined Satyasarani and requested the 6th respondent to help me.

- h. When the above Writ Petition was filed I was attending a Homoeo clinic in Kottakkal, under a Doctor, who follows the 'classical method'. Having completed my studies there I am joining a Homoeo clinic in Kondotty. Because the present

clinic is far away from Kotakkal (about 20 kms away) I have located a hostel for me to stay while attending the said clinic

- i. I wanted to complete my house surgery in my college but I was unable to do. so because my father, petitioner has collected all my original certificates from the house where we had stayed near the college. During my conversations with my father over phone he had agreed that he would return the same to me but I am still to get my certificates. Because of this I could not join the batch of house surgery starting on 20th October 2016 in my college. Now the only option left for me is to join the April batch of 2017 or to look for some Other institution to complete my house surgery. I therefore pray that this honorable court may be pleased to direct petitioner to handover my original certificates in order to enable me to complete my studies or else my career will be severely affected.
- j. I have very good relation with the family of the 6th respondent, whose daughter is almost my age. I do

not wish to return to my parent's house because they are against my adopting the religion of my choice and I will not be able to practice my religion due to the opposition in my family. Though my parents have been stating before this Hon'ble court that they will permit me to practise my religion, in reality that is not the case. Even during my stay in the places that this Hon'ble court directed my parents visited me and threatened me that I could not practise Islam.

- k. Being a major of 24 years of age I have the legal right to make my choice. I therefore most humbly pray that this Hon'ble court may be pleased to permit me to continue to live in the place of my choice and pursuing my career and religion without any constraint from any quarters. It is submitted that petitioner has no legal right to infringe on my right to practice the religion of my choice. Any attempt to curtail my rights to practice my religion or celebration of the religious festival of my choice will be blatant violation of the;

constitutional rights guaranteed to me as a citizen of India.

5. The averments in para-1 of the Writ Petition is almost correct but it is not true -that I was doing House Surgeoncy in the college. I am yet to join house surgeoncy due to reasons aforesaid and I wish to do the same at the earliest.
6. The averments in para-2 is not correct. The 6th respondent is not an illegal conversion centre. It is submitted that it is a centre of learning are prejudiced against the religion and who wish and make such propaganda in order to isolate all those Muslims in the country.
12. It is submitted that the allegations in the Writ Petition are all wild and imaginary statements made by petitioner, most likely at the behest of i. other interested persons. I firmly believe that my father has been taken for a ride and his love and affection towards me is being exploited by others. These are the very same elements, who are responsible for the publication of a Very damaging article in the newspapers without referring to my

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name, which article clearly points at me and maybe marked, as Exhibit R8 (b). I was as forced to write to the editor informing him of the damage that the same is caused to me but no reply has been received and neither have they published anything regarding my response. True copy of my letter dated 14-10-16 is produced herewith and maybe marked as Exhibit R 8 (c)

In view of the above and such other grounds that may be urged at the time of hearing it is most humbly prayed that this honorable court may be pleased to dismiss the above writ petition with costs.

All facts stated above are true.

Dated this the 24th day of October 2016.

Deponent

Literate deponent having read and understood the contents above solemnly affirmed and signed before me on this the 24th day of October 2016 at my office in Emakularn.

Advocate.

//True Copy//

Annexure P-26

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

THE HONOURABLE MR.JUSTICE DAMA SESHADRI

NAIDU

Monday, the 24th day of October 2016/2nd

Karthika, 1938

WP (Crl.)No. 297/2016 IS)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 DISTRICT, PIN-679 00i:
2. THE SUPERINTENDENT OF POLICE,
KOTTAYAM DISTRICT. PIN-689 001
3. INSPECTOR GENERAL OF POLICE,
ERNAKULAM RANGE, KOCHI, PIN-682 031.

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 detinue 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 18/10/2016 and upon hearing the arguments of M/S. C; RAJENDRAN & CP. ANILRAJ, Advocates 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, SRI. P.K.IBRAHIM, Advocate for R7 and of SRI. P. SANJAY, Advocate for detinue, the Court passed the following:-

ORDER

Post on 26-10-2016.

The parties who are present today shall be present on 26-10-2016 as well. We deem it appropriate to direct Deputy Superintendent of Police/ Perinthalmanna to cause production of the petitioner's daughter on 26-10-2016. The directions issued by this Court in the order

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passed on 27-09-2016 shall continue to operate until further orders.

24-10-2016

Sd/- P.N; RAVINDRAN, JUDGE
Sd/- DAMA SESHADRI NAIDU, JUDGE

/true copy/

ASSISTANT REGISTRAR

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Annexure-127

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

W.P.(CRL).NO.297 Of 2016

Asokan.K.M : Petitioner

Vs

Superintendent Of Police & ors : Respondents

Affidavit

I, Asokan.K.M, aged 57 years S/o. Mani, residing at Karattu (Devi Kripa) house, T.V. Puram P.O, Vaikom, Kottayam district, do hereby solemnly affirm and state as follows.

1. I am the petitioner in this Writ Petition (Crl). I am conversant with the facts of this case and as such I am competent to swear this affidavit.
2. I have recorded a phone conversation between me and the detenu which is a very important document in this case. A CD containing the true conversation between the myself and my daughter the detenu herein is produced herewith and marked as Exhibit-P9.
3. This document is to be accepted in evidence for a fair disposal of this case.
4. Under these circumstances I am filing a separate petition for the said purpose. Hence this Hon'ble Court may be pleased to accept Exhibit-P9 document in evidence.

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

Dated this the 26th day of October, 2016.

Deponent.

Solemnly affirmed and signed this before me by the deponent who is known to me at my office at Kollam on this 26th day of October, 2016.

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

IA NO. /2016

in

W.P.(CRL).NO.297 Of 2016

Petitioner/Petitioner

Asokan.K.M, aged 57 years
S/o. Mani, residing at Karattu (Devi Kripa) house,
T.V. Puram P.O, Vaikom, Kottayam district.

Respondents/Respondents

1. The superintendent of Police,
Malappuram District
2. The superintendent of Police,
Kottayam District
3. Inspector General of police
Ernakulam range, Kochi
4. The Director general of Police(law & order)
Police headquarters, Trivandrum
5. National investigation agency
Represented by the Superintendent of police(NIA)
Through Special public prosecutor (NIA)
6. Markazul Hidaya
Sathyasarani Educational & charitable Trust,
Karuvambram P.O, Manjeri, Malappuram District, PIN-676123
Represented by its manager
7. Sainaba.S
Srambikal house,
Puthoor.P.O, Kottakkal,
Malappuram District

PETITION FILED UNDER RULE 154 OF KERALA HIGH COURT RULES.

For the reasons stated in the accompanying affidavit this Hon'ble Court may
be pleased to accept **Exhibit-P9** document in evidence.

Dated this the 26th day of october, 2016.

Counsel for the Petitioner

7/c

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Anneer P 28

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

W.P.(CRL).NO.297 Of 2016

Asokan.K.M : Petitioner

Vs

Superintendent Of Police & ors : Respondents

AFFIDAVIT

I, Asokan.K.M, aged 57 years S/o. Mani, residing at Karattu (Devi Kripa) house, T.V. Puram P.O, Vaikom, Kottayam district, do hereby solemnly affirm and state as follows.

1. I am the petitioner in this Writ Petition (Crl). I am conversant with the facts of this case and as such I am competent to swear this affidavit.
2. A news channel Janam TV broadcasted a news regarding the illegal conversions happening in the 6th respondent organization. A video CD containing the news broadcasted in the Janam TV is produced herewith and marked as **Exhibit.P10.**
3. The detenu in this case showing unusual behavior towards me and my wife. I feel that there is some mental aberration caused to her. I don't know from where and what are the sources of it. My daughter Akhila is mentally weak and prone to mental diseases. My two sisters namely Beena Sabu and Bindu. K. Many are suffering from mental diseases and they are undergoing treatment in Sacred Hospital, Paynkulam, Idukki. They also had shown symptoms of fear psychosis. A true photocopy of the patient identity card of Beena Sabu is produced herewith and marked as **Exhibit P11.** A true photocopy of the patient identity card of Bindu.K.Many is produced herewith and marked as **Exhibit-P12.**
4. This document is to be accepted in evidence for a fare disposal of this case.Under these circumstances I am filing a separate petition to accept this document in evidence.

All the facts stated above are true and correct

Dated this the 1st day of November, 2016

Deponent.

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 1st day of November, 2016 in my office at Ernakulam.

Advocate

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

IA NO /2016

in

W.P.(CRL).NO.297 Of 2016

Petitioner/Petitioner

Asokan.K.M, aged 57 years
S/o. Mani, residing at Karattu (Devi Kripa) house,
T.V. Puram P.O, Vaikom, Kottayam district.

Respondents/Respondents

1. The superintendent of Police,
Malappuram District
2. The superintendent of Police,
Kottayam District
3. Inspector General of police
Ernakulam range, Kochi
4. The Director general of Police(law & order)
Police headquarters, Trivandrum
5. National investigation agency
Represented by the Superintendent of police(NIA)
Through Special public prosecutor (NIA)
6. Markazul Hidayah
Sathyasarani Educational & charitable Trust,
Karuvambram P.O, Manjeri, Malappuram District, PIN-676123
Represented by its manager
7. Sainaba.S
Srmbikal house,
Puthoor.P.O, Kottakkal,
Malappuram District

**PETITION FILED UNDER RULE 154 OF THE KERALA HIGH COURT
RULES**

For the reasons stated in the accompanying affidavit it is humbly prayed
that this Honble may be pleased to accept Exhibits P10 to P12 in evidence.

Dated this the 2nd day of November 2016

Counsel for the petitioner

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

W.P.(CRL).NO.297 Of 2016

Asokan.K.M

Petitioner

Vs

Superintendent Of Police & ors

Respondents

AFFIDAVIT

I, Asokan.K.M, aged 57 years S/o. Mani, residing at Karattu (Devi Kripa) house, T.V. Puram P.O, Vaikom, Kottayam district, do hereby solemnly affirm and state as follows.

1. I am the petitioner in this Writ Petition (Crl). I am conversant with the facts of this case and as such I am competent to swear this affidavit. All the averments contained in the counter affidavit of the 6th and 7th respondents except that those are specifically admitted or otherwise dealt are hereinafter denied.
2. The detenu in this case showing unusual behavior towards me and my wife. Detenu is our only daughter we have initially we expressed our displeasure over on her converting to Islam. But when we understood that her belief in Islam is so strong, we decided to let her free to believe in Islam and to do kinds of all spiritual practices. In unequivocal terms and in the through my pleadings I conveyed this message to her. I also believe the god which is called 'Allah' is well and the teachings of the profit.
3. I feel that there is some mental aberration caused to her. I don't know from where and what are the sources of it. My daughter Akhila is mentally weak and prone to mental diseases. My two sisters namely Beena Sabu and Bindu. K. Many are suffering from mental diseases and they are undergoing treatment in Sacred Hospital, Paynkulam, Idukki. They also had shown symptoms of fear psychosis. A true photocopy of the patient identity cards of Beena Sabu and Bindu.K.Many is produced herewith as Exhibits P 11 and P12 and I have filed a separate petition to accept the same.
3. From the report of the police official filed by the Senior Government Pleader revealed that she had been given fear psychosis by the description of hell and its and dreadfulness of it. She was also under the impression that if she mingles with hindus including her parents and that would

drive her away from the path of Islam and the same would result in her falling to hell and to undergo the most bitter and painful experiences.

4. So I understand that my daughter requires a psychiatric consultation and if anything is found wrong with her mentally adequate counseling and medical treatments are to be done. These consultations not for changing her religious beliefs and only for her health and mental fitness. It is also to be ascertained that if she under any external influence or threat. So is to be referred to a well reputed psychiatric centre.

Under these circumstances I m filing a separate petition permitting me to permit me or direct any other independent person to take my daughter to a psychiatrist for expert consultation and the further management if any required.

All the facts stated above are true and correct

Dated this the 2nd day of November, 2016

Deponent.

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 2nd day of November, 2016, in my office at Ernakulam.

Advocate.

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

I.A.No. of 2016

in

W.P.(CRL).NO.297 Of 2016

Petitioner/Petitioner

Asokan.K.M, aged 57 years
 S/o. Mani, residing at Karattu (Devi Kripa) house,
 T.V. Puram P.O, Vaikom, Kottayam district.

Respondents/Respondents

1. The superintendent of Police,
Malappuram District
2. The superintendent of Police,
Kottayam District
3. Inspector General of police
Ernakulam range, Kochi
4. The Director general of Police(law & order)
Police headquarters, Trivandrum
5. National investigation agency
Represented by the Superintendent of police(NIA)
Through Special public prosecutor (NIA)
6. Markazul Hidayat
Sathyasarani Educational & charitable Trust,
Karuvambram P.O, Manjeri, Malappuram District, PIN-676123
Represented by its manager
7. Sainaba.S
Srambikal house,
Puthoor.P.O, Kottakkal,
Malappuram District

PETITION FILED UNDER RULE 150 OF THE KERALA HIGHCOURT RULES

For the reasons stated above and in the interest of justice it is humbly prayed that this Honourable Court may be pleased to permit me or direct any other independent person to take my daughter to a psychiatrist for expert consultation and the further management if any required.

Dated this the 2nd day of November, 2016.

Counsel for the petitioner

71C

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Annex-129

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE SURENDRA

MOHAN

AND

THE HON'BLE MR. JUSTICE K. ABRAHAM

MATHEW

Monday, the 14th November, 2016/23rd Karthika,
1938

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

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 DISTRICT, PIN-679 001
2. THE SUPERINTENDENT OF POLICE,
KOTTAYAM DISTRICT. PIN-689 001
3. INSPECTOR GENERAL OF POLICE,
ERNAKULAM RANGE, KOCHI, PIN-682 031.
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 the respondents No. 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.)

This petition again costing on for orders upon perusing the petition and the affidavit filed in support of WP (Crl.) and this Court's order dated 02/11/2016 and upon hearing the arguments of M/S. C. RAJENDRAN & C.P. ANILRAJ, Advocates 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. SRI. P.K.IBRAHIM, Advocate for R7 and of SRI. S. SREEKO-R (SENIOR ADVOCATE) along with M/S. CM. MOHAMMED IQUABAL & K.C.HASEER, Advocates for detenu, the Court passed the following:-

K.SURENDRA MOHAN & K.ABRAHAM

MATHEW, JJ. W.P.(Crl.).No.297 of 2016

Dated this the 14th day of November, 2016

ORDER

K.Surendra Mohan, J

Heard the counsel appearing for the petitioner, the respective senior counsel representing the 6th respondent as well as the detenu and the counsel for the 7th respondent. We have also heard the learned

Govt. Pleader as well as the Standing Counsel for the 5th respondent. We notice that, the detenue is residing with the 7th respondent pursuant to an order dated 27.9.2016 of this Court in this case. It is stated by Advocate P.K. Ibrahim who appears for the 7th respondent that she is free and not under any sort of compulsion. At the same time, when we questioned the counsel regarding the sources of income of the 7th respondent and her husband, we are informed that the 7th respondent is a house wife while her husband is a small time businessman dealing in cashew nuts. The counsel for the petitioner on the other hand, levels a lot of allegations against 6th and 7th respondents, even to the extent of alleged forcible conversion. We find that there is no material available to support the said allegations. However, we take note of the fact that the detenue is a 24 year old unmarried girl. According to the counsel for the petitioner, she has not completed her internship which is part of her degree course in Homeopathy that she has completed. According to the learned Senior Counsel S.Sreekumar who appears for the detenue, she has become a qualified Medical

Practitioner in Homeopathy and is practicing and earning an income sufficient to maintain her. However, we do not have any proof regarding the above aspects. Therefore, the detenue as well as the 7th respondent shall file separate affidavits disclosing their sources of income with facts and figures regarding the quantum thereof. The 7th respondent shall also produce a copy of her ration card and details of the income of her husband. The detenue is further directed to produce proof of her educational qualifications as well as documents showing her entitlement to practise Homeopathy. The first respondent is directed to probe into the above aspects and to place a statement on record with supporting documents regarding the income of the detenue as well as the 7th respondent.

Post on 28.11.2016.

Hand over copies to all the counsel appearing in this case.

Sd/- K.SURENDRA MOHAN, JUDGE
Sd/- K.ABRAHAM MATHEW, JUDGE

ASSISTANT REGISTRAR

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Anne-130

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

AFFIDAVIT FILED BY THE 7TH RESPONDENT AS PER THE DIRECTION OF THE
HON'BLE HIGH COURT

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 7th respondent in the above Writ Petition (Crl.) and I am conversant with the facts of the case. This Hon'ble Court vide Order dated 14.11.2016 directed me to file an affidavit disclosing my source of income and details of income of my husband and copy of the ration card.
2. It is submitted that I have a family consisting of my husband and two children. Eldest daughter Fathima Thasni, aged 19 years is a student of B.Tech Agricultural Engineering in Kelappaji Agricultural Engineering College at Thavanoor. My 2nd child is a son by name Junaid, aged 12 years is studying in a Aided School (AKM Higher Secondary School) at Kottoor in standard 7. Since my children are studying in Government/Aided institutions, the fee is moderate and affordable only.
3. I am a Family Councilor and my services are given individually and institutions like 6th respondent and as resource person of ACCESS (Advanced Centre for Career Education and Social Service). I have an income about Rs.3,000/- from such counseling work by way of honorarium. Further, I also earn an amount of Rs.7,000/- per month for packing the cashew nuts which earlier was given as job work to some ladies in the locality. I have an extent of 20.62 residential property in Othukungal Village where we are staying.
4. My husband has an income of Rs.25,000/- out of which Rs.15,000/- is credited against his wages and Rs.10,000/- as profit of the business. Further, he has an agricultural income of Rs.2,42,000/- from his property inherited from his

father having an extent of 1.2 Acres wherein rubber, coffee and arrowroot etc. are raised. Further, he also manages 3.8 acre land inherited from his father which is also used for rubber, coffee and other products.

5. I have a loan liability of Rs.4,83,315/- in Kottakkal Co-operative Urban Bank. I had an amount of Rs.2,30,000/- saved for the marriage of my daughter. That money has now been spent for cases and what is left over is now Rs.49,000/- which was remitted in Kottakkal Co-operative Urban Bank on 13.11.2016.

6. I am producing a copy of the ration card issued in 2012 which is marked as Exhibit-R7(k). The new ration card is under process. My income in the new ration card is shown as Rs.7,000/- per month.

All the facts stated above are true.

Dated this the 25th day of November, 2016.

DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 25th day of November, 2016 at my office at Ernakulam.

P.K. IBRAHIM
ADVOCATE

Ac

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Annex-131

**BEFORE THE HON'BLE 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

ADDITIONAL COUNTER AFFIDAVIT FILED BY THE ALLEGED DETENUE

I, Akhila Asokan @ Hadiya, aged 24 yrs, D/o. Asokan, residing at Srambickal House, Puthoor P.O., Arichol, Tirurangadi Taluk, Malappuram District, do hereby solemnly affirm and state as follows:-

1. I am the alleged detainee mentioned in the above writ petition (Crl.). I am conversant with the facts of the case. I am swearing to this affidavit out of my own will and accord and without any compulsion from any corner.

2. The above writ petition is filed alleging that I am under the illegal detention of the 7th respondent. It is submitted that, the allegation that, I am under the illegal detention of 7th respondent is not correct and hence denied. I never was subjected to illegal detention by any person. I am residing with 7th respondent with my own will and volition. Moreover this Hon'ble Court was pleased to set me free by virtue of the judgment dated 25.1.2016 in WP (Crl.) No. 25/16 of this Hon'ble Court.

3. It is submitted that I have filed a detailed counter affidavit on 24.10.2016 producing certain documents to show that I am residing with the 7th respondent as per my own free will and volition. But when the matter came up for hearing on 14.11.2016, this Hon'ble Court was pleased to direct me to file an affidavit disclosing my source of income with facts and figures regarding the quantum thereof. I am also directed to produce proof of my educational qualification as well as document showing my enrollment to practice Homeopathy.

4. It is submitted that I have completed the 4 and half years Homeopathy course from Sivaraj, Homeopathy College, Salem in August, 2015. The result was published and I was qualified to join the internship for one year to qualify to practice Homeopathy. Even though the course was completed during August, 2015, the result was published after two months only, i.e. October, 2015. During this time, I was residing with my parents at Valkom. Immediately after declaring the result I joined for my internship in the same college. During this time I was residing in a rented home near to the college at Salem, along with my friends.

(2)

5. It is submitted that while so my grandfather died in November, 2015 and therefore I returned to my home for attending the funeral ceremony. I remained in my home for 40 days to attend the obsequies in connection with the funeral. Since I was reluctant to follow the rituals in connection with funeral ceremony as per Hindu custom as it is against my belief, my entire relatives started to harass me by compelling to follow the same. Therefore I left my home on 2.1.2016 resolving to accept Islam and went to my friend Jaseena. With the support of my friend Jaseena and her father Mr. Aboobacker, I approached certain institutions to learn about Islam.

6. It is submitted that I left my home on 2.1.2016 and went to the residential house of my friend Jaseena to legalize my embracement of Islam. I went to KIM and Tharbiyathul Islam Sabha to embrace Islam legally, but I was not admitted in their institutions. But the office bearers of Tharbiyathul Islam Sabha had permitted me to register with them and asked me to learn about Islam from any other institution and come back to their office after completion of the study for registering my embracement into Islam. This was done after submitting an affidavit sworn by me before a Notary Public. Since the above institutions were not admitted me as inmate I returned to Sathyasarani, but they also asked me to come after two days since there is nobody in their office. Thereafter on 6.1.2016 I went to the College wearing Islamic dress for the first time. Since I could not stay there I returned to Malappuram.

7. It is submitted that thereafter I am in the care of 7th respondent. Since the Police harassed me on 18th January I went to Ernakulam to meet my lawyer to file a Writ Petition against police harassment. From there I came to know about the first Habeas Corpus filed by my father and I appeared before this Hon'ble Court on 19th January, 2016. On that day I was sent with the 7th respondent. Thereafter on recording my submissions, this Hon'ble Court was pleased to dispose of the above writ petition by virtue of Ext. P3 judgment setting me free to live according to my wish. Thereafter I am residing with the 7th respondent. I was residing in Sathyasarani from 21st January to 21st March of 2016 to learn about Islam.

8. It is submitted that after completing my course in Sathyasarani, I went to my college on 22.3.2016 to continue my house surgeency. In the meanwhile my father went there and collected my entire certificates from my hostel. Since my friends were not co-operative to permit me to reside with them and I could not stay in the college, I returned from the College after submitting an application for NOC to complete my house surgeency in any other college and returned to Malappuram and started to live with the seventh respondent.

(3)

9. In the meanwhile I had joined in a homeopathic clinic in Malappuram run by Dr. Sameer Pookayil in which classic method of treatment was adopted. I studied the said classic method of treatment in the above institution from 28.3.2016 to 16.8.2016. The true copy of the certificate issued by Dr. Sameer Pookayil dated Nil is produced herewith and marked as **Exhibit R8(d)**. Thereafter I joined in Manakkal Homeo Clinic at Kondotty as a trainee on 17th August, 2016 and got admission in a ladies hostel. While so this writ petition was filed by my father and therefore I was forced to discontinue the studies and to vacate the hostel.

10. At present I am residing with the 7th respondent and she is taking care of me and maintaining me. The mark lists of 1st year to 3rd year issued by the Sivaraj, Homeopathy College, Salem and my other certificates were taken by my father from my hostel at Salem. Now I have my 4th year mark list alone with me. The true copy of the mark list issued by the Tamil Nadu Dr. M.G.R. Medical University, Chennai dated 25.11.2015 is produced herewith and marked as **Exhibit R8(e)**. Since my father took the other mark lists and certificates, I could produce only the above certificates as per the direction of this Hon'ble Court in its order dated 14.11.2016 in this Writ Petition. Since I do not have my certificate with me, I could not complete my House Surgeoncy in my college. At present I am living at the expenses of the 7th respondent, who is taking care of me along with her children. Since my certificates were taken by my father I could not complete the House Surgeoncy. Moreover due to the pendency of this proceeding also I was forced to discontinue my course.

11. It is submitted that the next batch of the house Surgeoncy Course will start on 20th April, 2017. Since my certificates were taken by my father, I could not join in the next batch of the house Surgeoncy course. The last time since my father filed the earlier writ petition, I was forced to discontinue my course. Thereafter the next batch of the house surgeoncy was started on 20th October, 2016 in my College. Since my father had not returned the certificates I could not join this batch also. Moreover I was in hostel as per the direction of this Hon'ble Court for 35 days during this period. If my father has not returned my certificates, I could not join in the next batch also. Therefore it is highly necessary to direct my father, the petitioner in this writ petition to return the entire certificates, which was taken from my hostel at Salem.

12. It is submitted that I have already stated before this Hon'ble Court while considering the earlier case and also in this case that I have embarrassed Islam out of my own desire and choice and I am now practicing Islam. I have been doing my routine prayers ever since I decided to embrace Islam. I have no quarrel with my parents. If I

(4)

am forced to return to my parental home, I could not do my routine prayers as a Muslim while residing with them. Moreover, they will compel me and coerce me to quit Islam and to convert as a Hindu. Even though this Hon'ble Court as per Ext.P3 judgment in W.P. (Crl.) No.25/2016 permitted my parents to have visitorial right, they never cared to meet me or to enquire about my welfare. I submit that they are not concerned about me but my acceptance of Islam. My parents being orthodox Hindus, they could not tolerate my acceptance of Islam faith. There is no bonafides in the writ petition. I am leading a simple and humble life with bare minimum needs and I am not at all a burden to 7th respondent. Therefore I decided to stay with the 7th respondent for my convenience. The 7th respondent also is willing to give me shelter and her family is willing to maintain me with their children. If my father returned my certificates, I could complete my course by completing the house surgeoncy. The 7th respondent also has informed that she is ready to bear the cost of my further studies. Only on completion of my courses, I can attend any clinic for practicing to earn for my daily needs. Since my father is in custody of my original certificates, it is highly necessary to direct him to return the same with immediate effect.

Hence it is most humbly prayed that this Hon'ble Court may be pleased to accept the averments in this affidavit, direct the petitioner to return my original certificates and drop the proceedings as not maintainable.

All the facts stated above are true and correct.

Dated this the 26th day of November, 2016.

DEPONENT

Solemnly affirmed and signed before me by the deponent on this the 26th day of November, 2016, in my office at Tirur.

Advocate

TC

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Annexure-132

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM

W.P.(CrL) No. 297/2016

Asokan K.M.

Petitioner

Vs.

The Superintendent of Police,
Malappuram & others

Respondents

MEMO FILED BY THE SENIOR GOVERNMENT PLEADER

It is submitted that the report of the Deputy Superintendent of Police, Perinthalmanna dated 15.12.2016 in W.P.(CrL) No.297/2016 is produced herewith which may be accepted on file.

Dated this the 19th day of December, 2016

P. NARAYANAN
SENIOR GOVERNMENT PLEADER WITH AG

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Office of the
Deputy Supdt. Of Police
Perinthalmanna, dated 15.12.2016.

From Deputy Supdt. Of Police,
Perinthalmanna.

To

Sri.Narayanan
Government Pleader
Advocate General Office, Ernakulum.

Sir,

Sub:- Writ Petition (CrI.)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 .

1.. 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,
Valkom, 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 registerd 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

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. Sreeeljith 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.

2. 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 'Aasiya' and also prepared an affidavit in the presence of Notary Public Adv. Devi.A.C. of Eranakulam.

3. 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 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 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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 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 presently she had no interest in it. Other than Sherin Shahana's invitation to go to Yemen no other person who have 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.

10. A detailed enquiry was conducted about the 6th respondent and 7th respondent. The 6th respondent is Markazul Hidhaya 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 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 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.

11. With regard to 7th 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 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 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 7th 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 7th 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.

12. 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 7th respondent is not available in the system. Aliyar (husband of 7th 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 it is revealed that 7th respondent Sainaba has obtained passport (No. N753174) in the year 1993 and it is expired now. 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 2005. Moreover request has been made to furnish the embarkment and disembarkment details of Muhammed Abdurahiman Baqavi (Passport No. P2339853) Chairman Sathya Sarani, Rafeeq C.P. (Passport No. M8765888) Secretary, Unnimammed (Passport No. J3857604) Trust member and Muhammed Rafi (Passport No. H33144334) Manager Sathya Sarani. As per the direction of the Honourable Court the detainee was produced before the Honourable Division Bench on 22-09-2016. After hearing both sides the Honourable High Court has ordered to produce the detainee before the Honourable High Court on 27-09-2016. And has permitted the detainee to reside at her choice and she proposed to reside with seventh respondent. She was directed to appear before Honourable High Court on 24/10/2016. With regard to the embarkment and disembarkment details none of these above mentioned persons has travelled through Cochin Airport during the period from 1/1/2007 to 3/10/2016. Meanwhile as per direction she resides at the house of Sainaba near Kottakkal within Malappuram District.

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As per the order of Honorable High Court of Kerala Ernakulam dated 14/11/2016 I have conducted enquiry and collected the details regarding source of income of Sainaba, her husband Aliyar and detenue Akhila. The details regarding source of income of Sainaba and Aliyar from business, teaching and social works. ie; Sainaba earns Rs 3,000/-per month from family counseling, Income from assisting in the business of her husband Rs 7,000/- per month, Income from Cashew nut business to Aliyar Rs 15,000/- per month, profit from business Rs. 10,000/- per month. Annual Income from Agricultural crops Rs 2,42,000/-. The copy of Ration Card of sainaba and Aliyar shows their Annual Income is Rs 24,000/-(twenty Four thousand). Sainaba produced a copy of Document (20.62 Cent) vide Survey No. 169/3 in Othukkungal Village, Malappuram. Aliyar produced a copy of Document (1.02 Acre) vide Survey No.1130/1 in Sethumangalam Village Kothamangalam. The detenue Akhila is earning Rs 2,000/-(Two thousand)per month from her senior Dr.Sameer Pookkayil as stipend for her training practice of Homeopathy. She produced a copy of her marklist to prove that she has completed the course of Homeopathy. As per the direction of Honourable High Court I have verified the Bank Accounts of Sainaba and Aliyar. Their Account Nos. are 5784020100002008, 5784020100002009 respectively at Union Bank. In addition to this Aliyar has an Account at Federal Bank as No.14270100137515. On verifying these accounts it is felt that there is no un-usual cash transaction.

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

. Dated this the 15th day of Deceember 2016



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

T/C

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Annexure P-33

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR.JUSTICE K.SURENDRA

MOHAN

&

THE HONOURABLE MR.JUSTICE K.ABRAHAM

MATHEW

Monday, the 19th day of December 2016/28th

Agrahayana, 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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM
DISTRICT, PIN-689 001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM
RANGE, KOCHI, PIN-682 031.

4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER), POLICE HEADQUARTERS, TRIVANDRUM-695 001.
5. NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE SUPERINTENDENT OF
POLICE(NIA), NO.28/443, 4TH CORSS, GIRI
NAGAR, KADAVANTHRA, KOCHI, PIN-682 016,
THROUGH SPECIAL PUBLIC PROSECUTOR (NIA),
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA, SATHYASARANI
EDUCATIONAL & CHARITABLE TRUST,
KARUVAMBRAM P.O., MANJERI, MALAPPURAM
DISTRICT, PIN-676 123, REPRESENTED BY ITS
MANAGER.
7. SAINABA.A.S., SRAMBIKAL HOUSE, PUTHOOR
P.O., KOTTACKAL, MALAPPURAM DISTRICT, PIN-
679 124.

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(Criminal).

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 28-11-2016 and upon hearing the arguments of M/s. C.RAJENDRAN & CP. ANIL RAJ, Advocates 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.SHIBI, A.L.NAVANEETH KRISHNAN, Advocates for R7, the Court passed the following:

K. SURENDRA MOHAN & K. ABRAHAM

MATHEW, JJ

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

Dated this the 19th day of November, 2016

K.Surendra Mohan. J

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We have heard the learned Senior counsel Sri.S.Sreekumar, who appears for the detainee. We have perused the affidavit dated 26.11.2016 filed by the detainee producing documents, Exts.R8(d) and R8(e). We are not prepared to rely on Ext.R8(d) which purports to make it appear as though a registered Homoeopathic Medical Practitioner has permitted the detainee 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 detainee, who has not obtained a degree in Homoeopathy can be permitted to train under him. The detainee has admittedly not completed her House Surgency or obtained eligibility to practice. Therefore, it is only appropriate that she completes her House Surgency without further delay and obtains eligibility to practice Homoeopathic Medicine. Her Senior counsel Sri.S.Sreekumar informs us that, the detainee is desirous of completing her House Surgency However, we place on record our dissatisfaction at the continued residence of the detainee with the 7th respondent, who is a stranger. The counsel for the petitioner also expresses

anxiety and concern at her continued residence with the 7th respondent. He is anxious about the safety and well being of the detenue.

His anxiety and concern as the parent of an only daughter is understandable. Therefore, it is necessary that the detenue 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 Surgency at the Sivaraj Homoeopathic Medical College, Salem. The college has a hostel for girl students where she is willing to reside and complete her House Surgency. 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 detenue 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 detnue 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

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stated to be in possession of the certificates of the
detenue shall bring such certificates also to Court. We
shall pass further orders in the matter, regarding the
manner in which the detenue is to be taken to the
Medical College and admitted to the ladies hostel, on
21.12.2016.

Post on 21.12.2016.

Sd/-
K. SURRNDKA MOHAN, JUDGE

Sd/-
K.ABRAHAM MATHEW, JUDGE

//True Copy//

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 21st day of December 2016/30th Agrahayana, 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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM DISTRICT, PIN-689 001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM RANGE, KOCHI, PIN-682 031.
4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEADQUARTERS, TRIVANDRUM-695 001.
5. NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE SUPERINTENDENT OF POLICE (NIA),
NO.28/443, 4TH CORSS, GIRI NAGAR, KADAVANTHRA, KOCHI, PIN-682 016,
THROUGH SPECIAL PUBLIC PROSECUTOR (NIA),
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA,
SATHYASARANI EDUCATIONAL & CHARITABLE TRUST,
KARUVAMBRAM P.O., MANJERI, MALAPPURAM DISTRICT,
PIN-676 123, REPRESENTED BY ITS MANAGER.
7. SAINABA.A.S., SRAMBIKAL HOUSE, PUTHOOR P.O.,
KOTTACKAL, MALAPPURAM DISTRICT, PIN-679 124.

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 control of the petitioner, as an interim measure, pending disposal of this writ petition(Criminal).

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 19-12-2016 and upon hearing the arguments of M/s. C.RAJENDRAN & C.P.ANIL RAJ, Advocates 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, M/s. P.K.IBRAHIM, K.P.AMBIKA, A.A.SHIBI, A.L.NAVANEETH KRISHNAN, Advocates for R7 and of SRI.S.SREEKUMAR (SENIOR ADVOCATE) along with SRI.C.M.MOHAMMED IQUBAL, Advocate for the alleged detenue, the Court passed the following:

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

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

Dated this the 21st day of December, 2016

ORDER

K.Surendra Mohan, J

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 detainee 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 detainee 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 detainee 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 7th respondent and to reside along with her at her address mentioned in this Writ Petition. The undertaking of the counsel for the 7th respondent that she

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would be produced before Court on 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 7th 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 7th 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 Surgency 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

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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 were informed by her senior counsel Sri.S.Sreekumar that she was desirous of completing her House Surgency 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 7th respondent as disclosed from the Writ Petition. The

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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 detainee, 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 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

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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 7th respondent had been involved in another case of forcible conversion in which, the detainee had been set at liberty. In the statement given by the detainee 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 detainee in her Section 164 statement referred to above, is

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none other than the 7th respondent in this case. At this stage, Advocate P.K.Ibrahim, who appears for the 7th 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 7th 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 detinue 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 detinue 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

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marries her is a suitable person.

6. The learned Senior Counsel Sri.S.Sreekumar submits that, since the detenue 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 detenue, 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 detenue with the 7th 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 detenue 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 Iqubal who has given a senior engagement to Advocate S.Sreekumar. We therefore, wanted the detenue as well as the 7th 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 detainee to complete her House Surgency 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 detainee 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 detainee, the 7th 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 been pending since 16th August, 2016. The detainee was residing with the 7th respondent as per an earlier order passed by this Court. This court exercising its Parens Patriae

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jurisdiction is anxious and concerned about the safety of the detenue and her well being, viewed especially in the light of the allegations made in the Writ Petition and the continued obstinance of the detenue to return to her parents. The person who is stated to have got married to the detenue 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 detenue 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 detenue. 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 detenue and under what circumstances, the detenue

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has agreed to get married to 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 7th 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 7th respondent with whom she was

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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 7th 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

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detenue 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.

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 4th 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

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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 detenue at the hostel.

Post on 6.1.2017.

H/o copy to the Government Pleader also.

Sd/-

K.SURENDRA MOHAN, JUDGE

Sd/-

K.ABRAHAM MATHEW, JUDGE

/true copy/

ASSISTANT REGISTRAR

cms

401-A

Annexure P-35

BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM

W.R(Crl) No. 297 of 2016

Asokan. K.M. : Petitioner

v.

Superintendent of Police,
Malappuram & others : Respondents

MEMO FILED BY THE SENIOR GOVERNMENT
PLEADER

It is submitted that the report of the Deputy Superintendent of Police, Perinthalmanna dated 04.01.2017 in W.P.(Crl) No. 297 of 2016 is produced herewith which may be accepted on file.

P.NARAYANAN SENIOR
Senior Government Pleader

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Office of the
Deputy Supdt. of Police
Perinthalmanna,

Dated 04.01.2017.

From
Deputy Supdt. of Police
Perinthalmanna.

To

Sri.Narayanan
Government Pleader
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 1.11.1.2016.

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

The gist of the case is that Akhila D/o Ashokan
was reported to be missing on 7.1.2016 at 11.00 hrs

2. 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)

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T.V.Puram, Vaikom, Kottayam District preferred a complaint before Deputy Supdt. Of Police, Perinthalmanna. 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, Perinthalmanna 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. Subsequently they reached at KEAM, Kozhikkode (Muslim Conversion Centre) and subsequently at Sathya Sarani, at Manjeri on 4.1.2016.

2. 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.

3. 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 hoax call to Akhila that her father has met with an accident and told her to come back to Emakularn. But Akhila came to know about it so she did not return home. She contacted Sathyasarani and along with 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;s home (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.

4. 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.
5. 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 of the then District Police

Chief Malappuram 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 caused 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.

6. 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 home. She contacted Sathyasarani and along with Jaseena reached at KSRTC Bus stand Malappuram as directed from Sathyasarani. There she met Sainaba W/o Aliyar, Srmbikkal 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;s home (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.

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9. 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 that her conversion to Islam was voluntary and there was no compulsion or threat from anybody. The Honourable High Court released her at her own liberty.

7. 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 suspected that there is a chance of marriage with a person having ISIS ideology. 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.

8. 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.
9. 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 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 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. 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.

10. A detailed enquiry was conducted about the 6th respondent and 7th respondent. The 6th respondent is Markazul Hidhaya Educational

Charitable Trust better known as 'sathyasarani', which is situated at 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 functioning. 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 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.

11. With regard to 7th 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 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 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. 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, but no certificate is in her possession. She has worked as teacher in different Un-aided High schools in Malappuram District.

12. Enquiry was conducted at Passport office Malappuram. The Passport Officer replied that no passport has been issued to detinue Akhila and the passport number of 7th respondent is not available in the system. Aliyar (husband of 7th 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 it is revealed that 7th respondent Sainaba has obtained passport (No. N753174) in the year 1993 and it is expired now. 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 dis- embarkment details of Akhila, Sainaba, Aliyar and Aboobacker none of them has visited the Gulf countries since 2005. Moreover request has been made to furnish the embarkment and dis-embarkment details of Muhammed Abdurahiman Baqavi (Passport NO.P2339853) Chairman Sathya sarani, Rafeeq CP. (Passport No. M8765888) Secretary, Unnimammed (Passport No. J3857604) Trust member and Muhammed Rafi (Passport No.H33144334) Manager Sathya Saran LAs per the direction of the Honourable Court the detenue was produced before the Honorable Division Bench on 22-09-2016. After hearing both sides the Honorable High Court

has. ordered to produce the detenue before the Honorable High Court on 27-09-2016. The Honble High Court permitted the detenue to reside at her choice and she proposed to reside with seventh respondent. She was directed to appear before Honorable High Court on 24/10/2016. With regard to the embarkment and dis- embarkment details none of these above mentioned persons has travelled through Cochin Airport during the period from 1/1/2007 to 3/10/2016. Meanwhile as per direction she resides at the house of Sainaba near Kottakkal within Malappuram District.

13. As per the order of Honorable High Court of Keraia Ernakulam dated 14/11/2016 I have conducted enquiry and collected the details regarding source of income of Sainaba, her husband Aliyar and detenue Akhila. Sainaba earns Rs 3,000/-per month from family counseling, Income from assisting in the business of her husband is Rs 7,000/- per

month, Income from Cashew nut business to Aliyar is Rs 15,000/- per month, profit from business is expected around Rs 10,000/-per month . Annual Income from Agricultural crops is around Rs 2,50,000/-. The copy of Ration Card of Sainaba and Aliyar shows their Annual Income as Rs 24,000/- (twenty Four thousand) only. Sainaba produced a copy of Document (20.62 Cent) vide Survey No. 169/3 in of Aboobacker Perayil is No.B3874815 (Accused in this crime). On enquiry it is revealed that 7 respondent Sainaba has obtained passport (No. N753174) in the year 1993 and it is expired now. 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, Ahyar and Aboobacker none of them has visited the Gulf countries since 2005 . Moreover request has been made to furnish the embarkment and disembarkment details of Muhammed Abdurahiman Baqavi (Passport No.P2339853) Chairman Sathya

sarani, Rafeeq OP. (Passport No, M8765888)
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practice of Homeopathy. She produced a copy of her marklist. As per the direction of Honorable High Court I have verified the Bank Accounts of Sainaba and Aliyar. Their Account Nos. are 5784020100002008, 5784020100002009 respectively at Union Bank. Aiiyar has got an account at Federal Bank. Nothing unusual was seen.

14. In connection with the order of the Honble High Court dated 21.12.2016 Shefin Jahan S/o Shajahan, 25/16, Chirayil Puthen Veedu, Chathinamkulam, Chandanathoppe who married Akhila was summoned to my office on 31-12-2016 and his statement was got recorded. Enquiry was conducted at Kottarakkara, Chathinamkulam Chandnathoppe etc, He has completed his B.A in Islamic History from T.K.M College, Kollam. At present he is working as an administrator of Muttrah Pharmacy at Muscat for the last two years. Shefin Jahan has one sister named

Shahla Jahan she is working as Nurse at Almas Hospital Kottakkal. His mother Rejila Beevi is working at Muscat, father also working at Muscat for last 10 years. During his college life he was active in Campus Front and later in Socialist Democratic Party of India (SDPI). He is an active member and administrator in the WhatsApp group namely "SDPI keralam". He is one among the administrators. This group has got a core-committee which is called "Thanal". This core committee decides which sorts of messages and postings should be further precipitated.

Mansy Buraqui who was arrested by the National Investigating Agency at Kanakamala, Kannur on 02.10.2016 in connection with Islamic States allegation was also a member of SDPI Keralam, he was a member of Thanal also. It is stated by him that around 7 months back Mansy Buraqui was eliminated from that group for his IS support. Shefin

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Jehan says that other than this whatsapp connection there was no connection between Mansy and him. His uncle Siyadkutty is also an SDPI worker.

He says that he married Akhila on matrimonial information received from a site namely "way to nikkah". This marriage was conducted by "Thanveerul Islam Sangham". On enquiry the main Khasi of this Islam Sangham is learnt to be Panakakd Thangal. It functions under Puthur Mahallu Committee, Registration No is 166/1983. It works under Sunni Samastha and has 2 Presidents, 2 Vice Presidents 2 Secretaries, one Joint Secretary and 14 other members. During the marriage from the bridegroom side around 20 members participated. No one participated from the side of bride (Akila/Hadiya). Then according to Sariath law the ritual is the main Khasi will name a khasi from the mahal as the guardian of the person who has appeared before them in

the absence of legal guardians. Sri. Abdul Rahman Dharimi who is the main Khasi of Puthur mahal presided over the function and Sainaba, Aliar and their friends and other members and neighbours including 50 members participated in the function. Since the mahal of the bridegroom is at Koilam, Chathinamkulam a letter was sought from them in this connection. Now Shefin Jahan is available at native place and he is supposed to leave India to Muscat on 10.01.2017 he is working under one Sreedhar of Tamil Nadu.

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

Dated this the 4th day of January 2017

//True Copy//

Annex-136
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BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

IA NO. /2017

In

W.P.(CRL).NO.297 OF 2016

Asokan K.M. : Petitioner

Vs

Superintendent Of Police & Ors : Respondents

Affidavit

I, Asokan.K.M., aged 57 years S/o Mani, residing at Karattu (Devi Kripa) house, TV Puram PO Vaikom, Kottayam district, do hereby solemnly affirm and state as follows.

1. I am the petitioner in this Writ Petition (Crl). I am conversant with the facts of this case and as such I am competent to swear this affidavit.
2. I have recorded a phone conversation between me and the detenu which is a very important document in this case. The 3rd respondent conducted a fake marriage of my daughter with one Shafin jahan S S/o Shajahan Chirayil Puthen veedu, Chathanamkulam, Chandanathopp, Kollam. This Hon'ble Court by the orderr dated 21/12/2016 in this case directed the police to conduct an investigation into the education family bag round and other relevant details of the said Shafin jahan. The Deputy superintendent, Perinthalmanna did not conduct any investigation as to the above said act but only took down the statement of Shafin Jahan and the submitted a false report.
3. The Shafin Jahan is closely connected with the anti national and unlawful activities which is causing threats not only to our nation but to the humanity as well. He has published a facebook post about his concept of his life partner. A true photocopy of the said facebook post about the concept of life partner dated 20/09/2016 is produce herewith and marked as **Exhibit-P13**. He published a posting in his facebook account on 1/11/2016 by titled "You be ready, one bullet is waiting for you ...?". A true photocopy of the facebook post titled "You be ready, one bullet is waiting for you ...?" dated 1/11/2016 is produced herewith and marked as **Exhibit P14**.

4. He issued another facebook posting admitting that he has gone to Yaman. A true photocopy of the facebook post of Shafin jahan admitting his journey to yemen is produced herewith and marked as **Exhibit P15**. He published another facebook posting by name "Do you get a smell of terror attack coming". dated 13/11/2016. A true photocopy of the said facebook post titled "Do you get a smell of terror attack coming?" is produced herewith and marked as **Exhibit-P16**. He has published a facebook post on 27/12/2016 titled "with the distant hope that I would return some day as I begin my journey" dated 27/12/2016 is produced herewith and marked as **Exhibit P17**. He published another facebook posting dated 30/12/2016 greeting the 7th respondent on her elevation of the 7th respondent as the member of the Muslim Personal law board. 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 is produced herewith and marked as **Exhibit-P18**. He has published a facebook post tiled "cherukkan usharatta, U.A.P.A okke undu? Dated 22-12-2016. A true photocopy of the facebook post titled "cherukkan usharatta, U.A.P.A okke undu? Dated 22-12-2016 is produced herewith and marked as **Exhibit P19**.

5. This documents are to be accepted in evidence in evidence for a fair disposal of this case.

6. Under these circumstances I am filing a separate petition for the said purpose. Hence this Hon'ble Court may be pleased to accept Exhibit-13 to P19 documents in evidence.

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

Dated this the 6th day of January, 2017.

Deponent.

Solemnly affirmed and signed this before me by the deponent who is known to me at my office at Kollam on this 6th day of January, 2017.

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

IA NO. /2017

in

W.P.(CRL).NO.297 Of 2016

Petitioner/Petitioner

Asokan.K.M, aged 57 years
S/o. Mani, residing at Karattu (Devi Kripa) house,
T.V. Puram P.O, Vaikom, Kottayam district.

Respondents/Respondents

1. The superintendent of Police,
Malappuram District
2. The superintendent of Police,
Kottayam District
3. Inspector General of police
Ernakulam range, Kochi
4. The Director general of Police(law & order)
Police headquarters, Trivandrum
5. National investigation agency
Represented by the Superintendent of police(NIA)
Through Special public prosecutor (NIA)
6. Markazul Hidayah
Sathyasarani Educational & charitable Trust,
Karuvambram P.O, Manjeri, Malappuram District, PIN-676123
Represented by its manager
7. Sainaba.S
Srmbikal house,
Puthoor.P.O, Kottakkal,
Malappuram District

PETITION FILED UNDER RULE 154 OF KERALA HIGH COURT RULES.

For the reasons stated in the accompanying affidavit this Hon'ble Court may be pleased to accept **Exhibit-P13 to P19** documents in evidence.

Dated this the 6th day of January, 2017.

Counsel for the Petitioner

ANNEXURE P-37

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present

THE HONOURABLE MR.JUSTICE K.SURENDRA

MOHAN THE HONOURABLE MR.JUSTICE K.ABRAHAM

MATHEW

Friday, the 6th day of January 2017/16th Pousha,

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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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM
DISTRICT, PIN-689 001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM
RANGE, KOCHI, PIN-682 031.

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4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER), POLICE HEADQUATERS, TRIVANDRUM-695 001.
5. NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE SUPERINTENDENT OF
POLICE (NIA), NO.28/443, 4TH CORSS, GIRI
NAC'AR, KADAVANTHRA, KOCHI, PIN-682 016,
THROUGH SPECIAL PUBLIC PROSECUTOR (NIA),
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA, SATHYASARANI
EDUCATIONAL & CHARITABLE TRUST,
KARUVAMBRAM P.O., MANJERI, MALAPPURAM
DISTRICT, PIN-676 123, REPRESENTED BY ITS
MANAGER.
7. SAINABA.A.S., SRAMBIKAL HOUSE,
PUTHOOR P.O., KOTTACKAL, MALAPPURAM
DISTRICT, PIN-679 124.

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

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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(Criminal).

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 21-12-2016 and upon hearing the arguments of M/s. C.RAJENDRAN & CP. ANIL RAJ, Advocates 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, SRI. P. K. IBRAHIM, Advocate for R7 and of SRI.S.SREEKUMAR (SENIOR ADVOCATE) along with SRI .CM.MOHAMMED IQUABAL, Advocate for the alleged detainee, the Court passed the following:

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

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

Dated this the 6th day of January, 2017

ORDER

Surendra Mohan, 1.

Read our earlier order dated 21.12.2016.

2. The detenue 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 detenue, is also present in Court. We have heard the learned Government Pleader, the learned Senior Counsel Sri.S.Sreekumar, who appears for the detenue, Sri.C.Rajendran, who appears for the 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

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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 detainee 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 detainee 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 detainee 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

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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 detenue 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 detenue was permitted to reside with the 7th respondent, she has proved to be unworthy

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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.

4. 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

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may also meet the detainee 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.

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Sd / - K SURENDRA MOHAN,
JUDGE

Sd/- K.ABRAHAM MATHEW,
JUDGE

/true copy/

Assistant Registrar

//True Copy//

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Annexure P- 38

BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM

W.P. (CRL.) NO. 297 OF 2016

Asokan K.M.

...Petitioner

Versus

Superintendent of Police & othersRespondents

MEMO SUBMITTED BY THE SENIOR GOVERNMENT
PLEADER

It is submitted that the report of the Deputy
Superintendent of Police, Perinthalmanna dated
30.01.2017 in W.P. (Crl.) No. 297/2016 is produced
herewith which may be accepted on file.

Dated this the 31st day of January, 2017.

P. NARAYANAN
Senior Government Pleader

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Office of the Deputy Supdt. of Police,
Perinthalmanna Dated 30.01.2017.

From

Deputy Supdt. Of Police,
Perinthalmanna.

To

Sri.Narayanan
Government Pleader
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 1. 11.1.2016.

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

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

1. 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

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before Deputy Supdt. Of Police, Perinthalmanna. 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,

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Perinthalmanna 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. Subsequently they reached at KEAM, Kozhikkode (Muslim Conversion Centre) and subsequently at Sathya Sarani, at Manjeri on 4.1.2016.

2. 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

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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.

3. 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 hoax call to Akhila that her father has met with an accident and told her to come back to Ernakulam.

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But Akhila came to know about it so she did not return home. She contacted Sathyasarani and along with 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 Archanas home (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.

5. During the investigation it was revealed that Jaseena's father Perayil Aboobacker has induced

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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.

5. Subsequently Ashokan, father of Akhila filed a Habeas Corpus (writ petition (Crl.) 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 of the then District Police Chief Malappuram 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 caused missing of Akhila. On enquiry they both were found missing. Sainaba Teacher is an active

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worker of National Woman Front and her husband is an activist of Popular Front of India.

6. 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 that her conversion to Islam was voluntary and there was no compulsion

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or threat from anybody. The Honourable High Court released her at her own liberty.

7. 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 suspected that there is a chance of marriage with a person having ISIS ideology. 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.

8. 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.

9. It is submitted that as a part of verification again statement of Akhila was recorded. 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 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 when her statement was recorded on 26/8/2016 Akhila told WCPO Rekha that she has informed Sainaba that she wanted to

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continue her House surgency course and that she was not intending for marriage. Other than Sherinn Shahanas invitation to go to Yamen 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.

10. A detailed enquiry was conducted about the 6th respondent and 7th respondent. The 6th respondent is Markazul Hidhaya Educatinal Charittable Trust better known as 'sathyasarani', which is situated at 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 functioning. 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 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

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inmates are given 55 days course. Male and Female inmates are kept apart and it has got boarding facilities.

11. With regard to 7th 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 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. Sainaba also used to conduct counseling at

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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, but no certificate is in her possession. She has worked as teacher in different Un-aided High schools in Malappuram District.

12. Enquiry was conducted at Passport office Malappuram. The Passport Officer replied that no passport has been issued to detenue Akhila and the passport number of 7th respondent is not available in the system. Aliyar (husband of 7th 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

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it is revealed that 7th respondent Sainaba has obtained passport (No. N753174) in the year 1993 and it is expired now. 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 dis-embarkment details of Akhila, Sainaba, Aliyar and Aboobacker none of them has visited the Gulf countries since 2005 . Moreover request has been made to furnish the embarkment and dis-embarkment details of Muhammed Abdurahiman Baqavi (Passport No.P2339853) Chairman Sathya sarani, Rafeeq CP. (Passport No. M8765888) Secretary, Unnimuhammed (Passport No.J3857604) Trust member and Muhammed Rafi (Passport No.H33144334) Manager Sathya Saran LAs per the direction of the Honourable Court the detenue was produced before the Honorable Division Bench on 22-09-2016. After hearing both sides the Honorable High Court has ordered to produce the detenue before the Honorable High Court on 27-09-2016. The Honble High Court permitted the

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detenue to reside at her choice and she proposed to reside with seventh respondent. She was directed to appear before Honorable High Court on 24/10/2016. With regard to the embarkment and dis-embarkment details none of these above mentioned persons has travelled through Cochin Airport during the period from 1/1/2007 to 3/10/2016. Meanwhile as per direction she resides at the house of Sainaba near Kottakkal within Malappuram District.

13. As per the order of Honorable High Court of Kerala Ernakulam dated 14/11/2016 I have conducted enquiry and collected the details regarding source of income of Sainaba, her husband Aliyar and detenue Akhila. Sainaba earns Rs 3,000/-per month from family counseling, Income from assisting in the business of her husband is Rs 7,000/- per month, Income from Cashew nut business to Aliyar is Rs 15,000/- per month, profit from business is expected around Rs 10,000/-per month . Annual Income from Agricultural crops is

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around Rs 2,50,000/-. The copy of Ration Card of Sainaba and Aliyar shows their Annual Income as Rs 24,000/-(twenty Four thousand) only. Sainaba produced a copy of Document (20.62 Cent) vide Survey No. 169/3 in Othukkungal Village, Malappuram. Aliyar produced a copy of Document (1.02 Acre) vide Survey No.1130/1 in Sethumangalam Village Kothamangalam. The detenue Akhila is earning Rs 2,000/-(Two thousand)per month from her senior Dr.Sameer Pookkayil as stipend for her training practice of Homeopathy. She produced a copy of her mark list. As per the direction of Honorable High Court I have verified the Bank Accounts of Sainaba and Aliyar. Their Account Nos. are 5784020100002008, 5784020100002009 respectively at Union Bank. Aliyar has got an account at Federal Bank. Nothing unusual was seen.

14. In connection with the order of the Honble High Court dated 21.12.2016 Shefin Jahan S/o Shajahan, 25/16, Chirayil Puthen Veedu, Chathinamkulam, Chandanathoppe who married

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Akhila was summoned to my office on 31-12-2016 and his statement was got recorded. As per direction detailed enquiry was conducted at Chathinamkulam Chandnathoppe etc places. Shefin Jahan holds a voter ID vide No. 44J0419853 of Kollam Corporation. He has completed his B.A in Islamic History from T.K.M College, Kollam .He was studied for Pius two at MSM HSS Chathinamkulam During his college life Shefin Jahan was active in Campus Front and later in Socialist Democratic Party of India (SDPI). Shefin Jahan is an active member and administrator in the Whats App group namely "SDPI) Keralam"!. He is one among the administrators. This group has got a core-committee which is called "Thanal". This core committee decides which sorts of messages and postings should be further precipitated. Mansy Buraqui who was arrested by the National Investigating Agency at Kanakamala, Kannur on 02.10.2016 in connection with Islamic States fact, was also a member of SDPI keralam, he was a

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member of Thanal also. It is stated by him that around 7 months back Mansy Buraqui was eliminated from that group for his IS support. Shefin Jehan says that other than this whatsapp connection there was no connection between Mansy and him. At present he is working as an administrator of Muttrah Pharmacy at Muscat for the last two years. Shefin Jahan has one sister named Shahla Jahan, she is working as a Nurse at Almas Hospital Kottakkal, His mother Rejila Beevi is working at Muscat, father has also worked at Muscat for last 10 years and now he is separated from family and doing furniture business at Thenkasi. This marriage Shajahan did not attend. On enquiry conducted near Chathinamkulam Shefin Jahan is seen involved as 6th accused in Crime 2100/2013 U/s 143,147,341,323,294(b) r/w 149 IPC of Kilikollur Police station, The brief of this case is that on 10/12/2013 at 18.45 hours 1 to 6 accused persons and 10 identifiable other persons formed themselves into an unlawful assembly at Chathinamkulam with common

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intension and wrongfully restrained the complainant and his friend (who were the sympathizers of AIYF) and assaulted them, used obscene words etc. The case is now on trial as CC No.734/14 of JFCM court Kollam. Another case registered against him a security proceeding 63/2014 U/s 107 IPC (3rd Accused) in the same station. One of his friends Shaiju @ Arabikuttan S/o Abdul Jaleel 35/16, Shaiju Manzil Chathinamkulam is involved in KAAPA on 19/10/2016 as No.26 /2016/KAAPA, His another friends Najmudheen Kallumpurath S/o Muhammed, Chathinamkulam, and Muhammed Rafin S/o RajuAli Manzil are active workers of Popular Front of India. The investigation team verified the account No.67054460729 of Shefin Jahan at State Bank of India Moonnamkutty. Nothing unusual was seen. On interaction with Shefin Jahan he stated that he has posted some lines of Poets Najidhoo Reyhan in Face book and also stated that he has posted some lines of Poets Mahassina Abbas also. He again stated that he has

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owns 5 cents landed property obtained as share from mother and he has bought 5 Cents land at Chathinamkulam 10 months back .The amount for purchase of this land was Rs 1.5 Lakhs which was taken from his NRI Account.

15. Siyadkutty (his uncle) is also an active SDPI worker and also a counsellor of Chathinamkulam Mahallu Committee. Shefin Jahan says that he married Akhila on matrimonial information received from a site namely "way to nikkah". On enquiry it is revealed that this marriage was announced to public on 14/12/2016 and Sainaba invited friends and neighbours 5 days back.The Pandal for Nikhah function erected on 17/12/2016. This marriage was conducted by "Thanveerul Islam Sangham". On enquiry the main Khasi of this Islam Sangham is learnt to be Panakakd Thangal. It functions under Puthur Mahallu Committee, Registration No is 166/1983. It works under Sunni Samastha and has 1 President, 2 Vice Presidents 1 Secretary, 2 Joint

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Secretary and 15 other members. During the marriage from the bridegroom side around 20 members participated. No one participated from the side of bride (Akila/Hadiya). Then according to Sariath law the ritual is that the main Khasi will name a Thahkim (Mahallu Khatib) from the mahal as the guardian of the person who has appeared before them in the absence of legal guardians. Sri. Abdul Rahman Dharimi who is the Khatib of Puthur mahal presided over the function and Sainaba, Aliar and their friends around 50 in all participated in the function. Since the mahal of the bridegroom is at Kollam, Chathinamkulam a letter containing the present marital status of bride was sought from them in this connection. On interaction with secretary of Chathinamkulam Mahal, he stated that he has issued a Marriage certificate after getting the details of marriage in a prescribed form issued from the said Mahal. As a part of verification the Investigation team perused the register of marriage. The register is seen maintained 09/3/2012. In the register the


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marriage of Hadhiya and Shefin Jahan was recorded as item No.24/2016 on 19/12/2016 at 5PM. On perusal of marriage register some other marriages also carried out late in the afternoon, for example Item No. 18/2012 marriage was conducted at 4 PM, 21/2012 at 2PM, 24/2012 at 4.30PM, 26/12, 27/12 at 2PM, 29/2014 at 4.45 PM, 19/2016 at 4.15 PM and 26/2016 at 5PM etc. Now Shefin Jahan and his sister Shahla Jahan is staying with his uncle Siyadkutty in a rented house at Chathinamkulam. Shefin Jahan was disembarked on 22-11-2016 at CST Airport Mumbai from Musket with Exit Visa and he is supposed to leave India to Muscat on recently.

16. It is submitted that as a part of verification statement of Akhila was again recorded on 10.01.2017. According to her statement she has embraced Islam religion out of her own will and she has requested Sainaba to marry her with a Muslim Person favorably residing in or near Kottayam. Sainaba registered the name of

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Akhila @ Hadhiya and, her daughter Fathima thesni on April 2017 in a matrimonial site namely "way to nikkah" by using her ID. She added that where Plenty of request were received. On November 1st week Shefi Jahan called Aliyar and talked about the matrimonial information received from the site. He talked to Akhila about the same. On November 30th Shefin Jahan, sister Shahla Jahan and uncle Siyadkutty came to the house of Sainaba at Puthur and the marriage was decided. She added that sincej she. decided to embrace. Islam, her parents objected and she did not| get any support from them. Then she was forced to stay with Sainaba since she had no other option. However stay with Sainaba is not a permanent solution. That is why she decided to get married. On verification it is proved beyond doubt that no one in an around Puthur, where Akhila @Hadhiya was staying has turned up for marriage. The marriage was solemnized at the house of Sainaba since



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she is the present guardian. It is also learnt that a marriage proposal was extended from a BDS Doctor in the month of April 2016, while her stay at Sathyasrani Manjeri. But it was rejected by Sainaba, her care taker for reasons unknown. After their Marriage Shefin Jahan and Hadhiya have stayed together for 2 days.

On verification with the help of by Cyber Cell Malappuram the matrimonial of Hadhiya is seen registered bearing Reg.No. WT.443429 on 17/04/2016 at 3.58 PM in site namely "way to nikkah"

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

Dated this the 30th day of January 2017

Deputy Supdt. Of Police
Perinthalmanna

T/e

Annexure-P 39
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**BEFORE THE HON'BLE HIGH COURT OF KERALA
AT ERNAKULAM**

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

Asokan K.M. : Petitioner

Vs.

The Superintendent of Police and others : Respondents

AFFIDAVIT

I, Akhila Asokan @ Hadiya, aged 24 yrs, D/o. Asokan, residing at Srambickal House, Puthoor P.O., Arichol, Tirurangadi Taluk, Malappuram District, do hereby solemnly affirm and state as follows:-

1. I am the alleged detainee mentioned in the above writ petition (CrI.). I am conversant with the facts of the case. I am swearing to this affidavit out of my own will and accord and without any compulsion from any corner.
2. The above writ petition is filed alleging that I am under the illegal detention of the 7th respondent. On 21.12.2016 this Hon'ble Court was pleased to pass an interim order directing the 1st respondent to cause an investigation to be conducted in the education, family background, antecedents and other relevant details of Sri, Shafin Jahan, who is my husband. It is also directed to enquire into the circumstance surrounding the conduct of the marriage also. Accordingly the investigating officer has filed a report on 6.1.2017 before this Hon'ble Court in pursuant to the above interim order. But this Hon'ble Court finding that how and in what circumstances the decision to conduct the marriage was taken is not stated in that report, directing the investigation officer to complete the investigation within a period of two weeks as directed in the earlier order.
3. It is submitted that the marriage was conducted after seeking alliance through a site namely way to Nikah. The marriage enquiry was registered in the above site on 17.4.2016. The true copy of the registration details published in the website dated 17.4.2016 is produced herewith and marked as **Exhibit R8(f)**. The true copy of the details of enquiry in reply to the registration of marriage of the detainee published in the website is produced herewith and marked as **Exhibit R8(g)**. The true copy of the details of the enquiry made by Shafin dated 8.8.2016 is produced herewith and marked as **Exhibit R8(h)**.

4. It is submitted that in pursuant to the above enquiry the proposal from my husband was considered and after an enquiry regarding his whereabouts by my well wishers, the marriage was fixed. When my husband got leave, on 22.11.2016 he came to India and thereafter we met for the first time on 30.11.2016 and decided to conduct the marriage on 19.12.2016. Now my husband is residing in India and he has to go back by the next month to join the new job. The true copy of the offer letter issued by Al Masanad International, Muscat dated 2.1.2017 is produced herewith and marked as **Exhibit R8(i)**. Therefore the marriage is conducted after proper enquiry regarding the whereabouts of my husband by my well wishers. There is no foul play in the marriage. Therefore the above documents are highly necessary for the proper disposal of this case.

Hence it is most humbly prayed that this Hon'ble Court may be pleased to accept the documents produced along with this affidavit for the interest of Justice.

All the facts stated above are true and correct.

Dated this the 31st day of January, 2017.

DEPONENT

Solemnly affirmed and signed before me by the deponent on this the 31st day of January, 2017, in my office at Ernakulam.

C.M.Mohammed Iquabal
Advocate
K/95/1997

T/c

31/1/17

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

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

Tuesday, the 31st day of January 2017/11th Magha, 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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM DISTRICT, PIN-689 001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM RANGE, KOCHI, PIN-682 031.
4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEADQUARTERS, TRIVANDRUM-695 001.
5. NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE SUPERINTENDENT OF POLICE (NIA),
NO.28/443, 4TH CORSS, GIRI NAGAR, KADAVANTHRA, KOCHI, PIN-682 016,
THROUGH SPECIAL PUBLIC PROSECUTOR (NIA),
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA,
SATHYASARANI EDUCATIONAL & CHARITABLE TRUST,
KARUVAMBRAM P.O., MANJERI, MALAPPURAM DISTRICT,
PIN-676 123, REPRESENTED BY ITS MANAGER.
7. SAINABA.A.S., SRAMBIKAL HOUSE, PUTHOOR P.O.,
KOTTACKAL, MALAPPURAM DISTRICT, PIN-679 124.

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(Criminal).

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 06-01-2017 and upon hearing the arguments of M/s. C.RAJENDRAN & C.P.ANIL RAJ, Advocates 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, SRI.P.K.IBRAHIM, Advocate for R7 and of SRI.S.SREENUMAR (SENIOR ADVOCATE) along with SRI.C.M.MOHAMMED IQUABAL, Advocates for the alleged detainee, the Court passed the following:

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

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


Dated this the 31st day of January, 2017

ORDER

● Surendra Mohan, J.

Read our earlier orders dated 21.12.2016 and 6.1.2017.

2. The Government Pleader has placed before us along with a memo dated 31.1.2017, a report dated 30.1.2017 of the Deputy Superintendent of Police, Perinthalmanna. According to the Deputy Superintendent of Police, the detinue had registered her name at a matrimonial site by name 'way to Nikah' in April, 2016. As per the report, in the first week of November, 2016 one Shefin Jahan had called Aliyar and had talked to him about the matrimonial information obtained from the site. Aliyar informed Akhila about the same. On November, 30th, it is stated that Shefin Jahan, his sister Shahla Jahan and uncle had come to the house of the 7th respondent and the



marriage was finalized. It is further stated that, on 14.12.2016 the marriage was announced in public and the 7th respondent invited friends and neighbours five days prior to the marriage. The Pandal was erected on 17.12.2016 and the marriage was conducted at the house of the 7th respondent. From the side of the bridegroom, about 20 members participated, but no one participated from the side of the bride. It is further stated that, Sri. Abdul Rahman Dharimi, who is the Khatib presided over the function and Sainaba (7th respondent), Aliyar and their friends around 50 in number participated in the function. According to the report, after their marriage, Shefin Jahan and detainee had stayed together for two days.

3. It is worth recalling that the detainee was permitted to reside with the 7th respondent as per order dated 27.9.2016 of this Court on the assurance that if the detainee proposes to shift her residence and to reside elsewhere, she shall do so only after informing the Deputy Superintendent of Police, Perinthalmanna in writing and



furnishing her full residential address and the telephone number over which she could be contacted. It is also worth noticing from the said order that she was permitted to reside with the 7th respondent since she chose to do so and was unwilling to reside with her parents.

4. Since the Deputy Superintendent of Police in his report states that the marriage was conducted with the active involvement of the 7th respondent, it is only appropriate that the 7th respondent explains by filing an affidavit, the circumstances under which the marriage proposal originated, the person at whose instance the detinue was registered at the matrimonial site, the manner in which the marriage proposal was considered and conducted. It is worth noticing that the writ petitioner, who is the father of the detinue, as well as her mother, as also this Court were not informed of any such proposal or even the conduct of the marriage. As we have noticed in our earlier orders, it was only when the case was taken up on 21.12.2016 that this Court was informed of the marriage of

Amal

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the detainee. We have also noticed in the said order that the detainee had come to Court accompanied by a stranger, who, we were informed at that time, was the person to whom she had got married. The 7th respondent shall also disclose in her affidavit the details of the organizations in which she is a member.

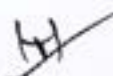
Adv. P.K.Ibrahim, who appears for the 7th respondent, offers to place the affidavit on board within a week. Post on 7.2.2017. Meanwhile, the detainee shall continue her residence at the Hostel subject to the conditions stipulated by our earlier orders. She shall be produced in Court on 7.2.2017.

Sd/- K.SURENDRA MOHAN, JUDGE
Sd/- K.ABRAHAM MATHEW, JUDGE

/true copy/


ASSISTANT REGISTRAR

sb





Annexure-Py1 471

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

AFFIDAVIT FILED BY THE 7TH 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 7th respondent in the above writ petition and am conversant with facts of the case. This affidavit is filed as directed by this Hon'ble Court in its order dated 31.1.2017.
2. The above writ petition is in relation to Akhila @ Hadiya. In response to the above Writ Petition for habeas Corpus, Akhila @ Hadiya appeared before this Hon'ble Court on 21.12.2016 and submitted that she is not under any illegal detention and is a free agent and has been residing at my home on her own volition.
3. This Hon'ble High Court however send her to the hostel by order dated 21.12.2016 and has been in hostel since then. Petitioner had earlier filed another Writ Petition for Habeas corpus as WP(Cri)No. 25/2016, which came for consideration on 14.1.2016 and then on 19.1.2016. The alleged detenu, Akhila @ Hadiya appeared before this Hon'ble Court on 19.1.2016. This Hon'ble court interacted with her and found her stay with this deponent on her own volition. Considering her adamant stand refusing to go with petitioner (father), and having regard to her desire to join Sathysarani at Manjari to pursue her study in Islam for conversion, this Hon'ble court allowed Akhila @ Hadiya to take admission in Sathyasarani and allowed her to stay with this deponent as per desire. The case stood adjourned 25.1.2016 for production of proof regarding admission of Akhila

@ Hadiya in Sathysarani institution. The writ petition was again came up for consideration on 25. 1.2016. This Hon'ble court taking note of her admission in Sathyasarani on 20.1.2016 and recording that the alleged detenu is not under any illegal confinement closed the writ petition recording the fact that the alleged detenu is staying at Sathysarani institution on her own free will. This Hon'ble Court however allowed petitioner and his family members to visit her in the said institution subject to the regulation regarding visiting time.

4. It is submitted that after completing the studies Akhila @ Hadiya joined this deponent and continued to stay with her. After her study in Sathya Sarani, Akhila became Muslim and changed her name from Akhila to Hadiya. Neither the petitioner nor any of his family members ever bothered to visit Akhila either at Sathysarani or at the residence of this deponent despite being invited. Hadiya however kept her contact with her family including petitioner over mobile. Petitioner however suppressing all these facts filed the above Writ Petition alleging false and irresponsible statements that she is planning to leave country to join ISIS filed the above Writ Petition.

5. She appeared on 22.8.2016 through counsel and made statement that she is not under any illegal detention and that she is residing with this deponent and that she has no passport to be apprehensive of going abroad. However this Hon'ble court directed to send Akhila @ Hadiya to hostel. She remained in the hostel till 27.9.2016. On 27.9.2016 Akhila @ Hadiya submitted a statement in writing to this Hon'ble court wherein she complained that she has been in custody of this court for no fault of her for the last 35 days. That statement stand incorporated in the records. This Hon'ble Court interacted with Akhila @ Hadiya. During the interaction, she stated before this Hon'ble court that " she does not wish to go with her parents or reside with them at her parental home and that she may be permitted to go and reside at the place of her choice. This Hon'ble court considering the fact that she does not hold any passport and that police also

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in their statements have stated that there is nothing to indicate that she is likely to be taken to Syria, proceeded to pass the following order:

"After hearing learned counsel on both sides, we are of the opinion that in the light of the finding entered by this court 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 Shanthinikaten 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 hearing date. Learned counsel for the detenu also submitted that the detenu will be present in person on the next hearing date. We accordingly permit the detenu to reside at a place of her choice. We also record the statement of Ms Akhila that she proposed to reside with 7th respondent, Smt A.S Sainabha whose address is mentioned in the instant writ petition. Sri P.K Ibrahim learned counsel appearing for the 7th respondent submitted that the 7th 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, she shall inform that fact to the Deputy Superintendent of police, Perinthalmanna in writing and furnish her full residential address and telephone number if any over which she can be contacted".

6. It is submitted that the counsel for the petitioner Mr. C. K Mohanan then prayed for an order to maintain status quo. When the bench asked by status quo what he means, he said, she may be wedded to somebody and by status quo he means non marital status. This Hon'ble court in response to that openly stated that this court cannot interfere in such personal matters.
7. Akhila @ Hadiya was thus released from the hostel. After being released from hostel she sent a letter by speed post to her father on 19.10.2016 requesting him to finish the case and explaining the trauma and mental harassment she had undergone in the hostel. A true copy of the said letter dated 19.10.2016 is produced herewith and marked for reference as

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Exhibit R7(l) . She appeared before this Hon'ble court on 24.10.2016 as directed in the order dated 27.9.2016. On 24.10.2016 the case was not taken up and hence adjourned to 26.10.2016 and then 27.10.2016. This Hon'ble court also dispensed with her appearance until further orders.

8. It is submitted that Akhila @ Hadiya being a major and aged above 24, she expressed her desire to marry with Muslim boy. The marriage proposal for Hadiya was thus initiated at her instance, much before the above case itself was filed. Accordingly marriage request was registered in a Website called "Way to Nikah" on 17.4.2016 by this deponent acting as her guardian. True copy of the print out of the website information after registering the request on 17.4.2016 is produced herewith and marked for reference as Exhibit R7 (m).

9. The qualifications required for bridegroom was stated as "educated, religious, and professional". In the profile of the bride, it was clearly mentioned that she is "very religious, reverted Muslim". It was also stipulated that she would not accept polygamy. This deponent's mail id was furnished for correspondence. A number of responses came. True copy of the print out of the various proposals came in response to Ext R7 (m) is produced herewith and marked for reference as Exhibit R7(n). However, there was no response either from Kottayam or any nearby district. Hadiya preferred somebody from Kottayam or nearby district with a view to have some proximity with her parental house. While waiting for proposals from Kottayam or its nearby districts, we received proposal of Shafin Jahan on 8.8.2016 in what's app No 9400366282. True copies of the communication taken place in,whats app on 8.8.2016 is produced herewith and marked for reference as Exhibit R7(o). This proposal being from a district nearby Kottayam, and happened to meet the qualifications required for the bridegroom, namely education, religious and professional, Akhila @ Hadiya expressed her desire to proceed. It is at this juncture, the petitioner filed the above writ petition.

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10. It is submitted that, after being released from the hostel by this Hon'ble Court on 27.9.2016, the proposal from Shafin Jahan was proceeded with and a meeting with him was arranged at my house on 30.11.2016. Shafin Jahan came to see Hadiya at my residence along with his sister Shahala Jahan and uncle Siyad Kutty. Both of them expressed their consent to proceed.

11. Thereafter Hadiya in writing requested my husband to do necessary steps to solemnize her Nikah. True copy of the request made to the husband of this deponent is produced herewith and marked for reference as **Exhibit R7(p)**. She also addressed a letter to Syed Hyder Ali Shihab Thangal who is the Khazi of Puthoor Mahal of this deponent, requesting to perform her Nikah fixed on 19.12.2016 with Shafin Jahan. True copy of the letter addressed to Janab Hyder Ali Shihab Thangal dated 13.12.2016 acknowledged on 14.12.2016 is produced herewith and marked for reference as **Exhibit R7(q)**. Janab Siyed Hider Ali Shihab Thangal authorized the Imam of Puttur Juma Masjid Mahal Mr. Abdhul Rahman Dharimi to perform the Nikah. Accordingly Nikah was performed on 19.12.2016 at my residence which was attended by people from relations and from my Mahal. Hadiya did not choose to inform her parents, though there was regular communication between them over mobile. She even prevented us from passing any such information till the marriage is over. After, the marriage, Hadiya called petitioner and informed about her marriage.

12. It is submitted that after the case stood adjourned dispensing with the presence of Akhila @ Hadiya, there was no communication with the counsel at Ernakulam. On 20.12.2016, the Counsel contacted me to inform that there was a posting of the case 19.12.2016 and the court has directed Hadiya to appear on 21.12.2016. The news about the marriage was informed to the counsel only then.

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13. It is submitted that even after marriage on 19.12.2016 the bride and bride groom stayed at my home since their marriage registration, presence of both the parties are required and registration had to be done as bridegroom is having only short period of leave in Kerala.

14. It is submitted that the details my education, social activities, financial status etc have been already disclosed in my affidavit dated 25.11.2016. Hadiya has always been free and she was staying with me on her own free will. The marriage got solemnized on her request and there is absolutely no undue influence or coercion.

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

Dated this 6th day of February 2017.

DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 6th day of February 2017 at my office at Ernakulam.

Adv. P.K. IBRAHIM

7/2/17

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN

THE HONOURABLE MR. JUSTICE K. ABRAHAM MATHEW

Tuesday, the 7th day of February 2017/18th Magha, 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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM DISTRICT, PIN-689 001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM RANGE, KOCHI, PIN-682 031.
4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEADQUARTERS, TRIVANDRUM-695 001.
5. NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE SUPERINTENDENT OF POLICE (NIA),
NO.28/443, 4TH CORSS, GIRI NAGAR, KADAVANTHRA, KOCHI, PIN-682 016,
THROUGH SPECIAL PUBLIC PROSECUTOR (NIA),
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAEUL HIDAYA,
SATHYASARANI EDUCATIONAL & CHARITABLE TRUST,
KARUVAMBRAM P.O., MANJERI, MALAPPURAM DISTRICT,
PIN-676 123, REPRESENTED BY ITS MANAGER.
7. SAINABA.A.S., SRAMBIKAL HOUSE, PUTHOOR P.O.,
KOTTACKAL, MALAPPURAM DISTRICT, PIN-679 124.

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 detenu 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(Criminal).

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 31-01-2017 and upon hearing the arguments of M/s. C.RAJENDRAN & C.P.ANIL RAJ, Advocates 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, SRI.P.K.IBRAHIM, Advocate for R7 and of SRI.S.SREEKUMAR (SENIOR ADVOCATE) along with SRI.C.M.MOHAMMED IQUBAL, Advocates for the alleged detenu, the Court passed the following:

Annexure P49
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7/2/17

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

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

Dated this the 7th day of February, 2017

ORDER

Surendra Mohan, J.

We have heard the counsel appearing for the petitioner, the 7th respondent, the learned Government Pleader as well as the counsel for the detinue at length. The counsel for the petitioner has placed reliance on the documents produced as Exts.P13 to P19. The 7th respondent has placed reliance on the documents produced as Exts.R7(m) to R7(o). The detinue had also produced Exts. R8(f) to R8(i), which are copies of documents taken from different sites on the social media. While the authenticity of the documents are asserted by one side, such authenticity is under serious dispute by the other side. We are informed by the learned Government Pleader that it would be possible to ascertain the authenticity of the documents so produced and to find out whether there have


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been manipulations or whether they have been fabricated or created for the purpose of these proceedings as alleged by the petitioner. A report in the said regard is necessary for proceeding further in this matter. We are also anxious to ascertain the criminal antecedents of Shri. Shefin Jahan, who is alleged to have married the detainee during the pendency of these proceedings. The Government Pleader seeks time for furnishing such details.

Post on 22.02.2017. The detainee shall, in the meantime, continue to be accommodated in the Hostel subject to the conditions stipulated by us in our earlier orders. She shall be produced in Court on 22.02.2017.

Sd/- K. SURENDRA MOHAN, JUDGE
Sd/- K. ABRAHAM MATHEW, JUDGE

/true copy/


ASSISTANT REGISTRAR



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

AFFIDAVIT FILED BY THE 7TH 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 7th respondent in the above writ petition and am conversent with facts of the case. This deponent filed affidavit dated 6.2.2017 as directed by this Hon'ble Court in its order dated 31.1.2017. This affidavit is sworn to state certain facts regarding the enquiries made us after Shafin Jahan came to see Hadiya at my residence . In paragraph 10 of the affidavit dated 6.2.2017, I have stated that both Shefin Jahan and hadiya expressed to proceed with marriage.

2. It is submitted that this respondent and her family did enquire about Shefin Jahan at the place of his employment at Muscut and in also at his native place. At Muscut , the enquiry about his character and employment was made with Mubashir, who is working at Muscut in the town where Shafin Jahan is also working. Mubashir hails from Kottakkal and an acquaintance of my husband Aliyar. At native place, the enquiries were made through Hashim and Sadique. Sadique is a in business of Cashew nut with whom my husband have business contacts. Hashim is a relative of Sadique. During the enquiry, we were not aware of his involvement in any case. The marriage was thus finalized being satisfied by the enquiry. The details of these enquiries made after the couples had signaled to proceed with the proposal, was omitted to be stated inadvertently and hence this additional affidavit. This additional affidavit hence may be read as part of the affidavit dated 6.2.2017.

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

Dated this 19th day of February 2017.

DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 19th day of February 2017 at my office at Ernakulam.

Adv. P.K. IBRAHIM

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BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

I.A.No. of 2017

in

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

Sainaba A.S.

: Petitioner/7th Respondent

Vs.

Asokan K.M and others.

: Respondents/
Petitioner and Respondents 1 - 6

PETITION FILED UNDER RULE 154 OF THE KERALA HIGH COURT RULES.

For the reasons stated in the accompanying affidavit it is most humbly prayed that this Hon'ble Court may please to receive the affidavit and consider the same in the above Writ Petition. This affidavit hence may be read as part of the affidavit dated 6.2.2017.

Dated this the day of 19th day of February, 2017.

COUNSEL FOR THE 1ST RESPONDENT

Annexure P44
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**BEFORE THE HON'BLE 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

AFFIDAVIT FILED BY THE HUSBAND OF THE ALLEGED DETENUE

I, Shafin Jahan, aged 25 yrs, S/o. Shajahan, residing at Chirayil Puthenveedu, Chathinamkulam, Chandanathoppu, Kollam District, do hereby solemnly affirm and state as follows:-

1. I am not a party to the above proceedings. I am the husband of the alleged detainee mentioned in the above writ petition (Crl.). I am conversant with the facts of the case. I am swearing to this affidavit for and on behalf of the detainee and also to refute the allegations made against me in I.A.287/2017 and I.A. 2107/2017.
2. All the allegations made against me in I.A.287/2017 and I.A. 2107/2017 filed by the petitioner in the above Writ Petition (Criminal) are untrue and hence denied by me. The allegation that my marriage is a fake marriage is baseless. The allegation in para 3 of the petition that I am closely connected with the anti-national and unlawful activities which is causing threats not only to our nation but to the humanities as well has no basis. The allegation that I have published Ext. P13 face book post about my concept of my life partner is baseless. Ext. P13 is a poetry of Najitha Raihan which was reposted by me in my Facebook page. Ext. P14 also the front page of a poetry written by Muhaseena Abhas. The full version of the poetry is produced along with the affidavit of the detainee as Ext. R8(k).
3. The allegation in para 4 of I.A. 287/2017 that I have made a posting in the face book admitting that I have gone to Yeman is not correct. It is clear from the above post itself that I took the photo during my journey to Salala with my friend. Salala is a town in Muscat and the journey was in connection with my employment. Ext. P16 is only a political satire. It is made only to mean that after the demonetization on 8.11.2016, to conceal the failure of the Government in making proper supply of notes, there is

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every chance of a riot planned by the ruling party. My political party apprehend this fact and it was shared in the face book also.

4. Regarding Ext. P17 post made on 27.12.2016, I could explain that after sending my wife to the hostel as per the order of this Hon'ble Court, I was returning home lonely. To show my loneliness a photo was taken and it was posted in the Facebook. It is true that I posted a greeting of 7th respondent on her elevation as the member of the Muslim Personnel Law Board, since I have much affinity with her as my wife treat her as her mother. The above post was made after my marriage. But Ext. P19 is a post of the play card of a student from the Student Social Justice conducted a procession at Farooq College against the misuse of UAPA in Kerala. The name of SSJ (Student Social Justice) is well written in the play card also.

5. It is submitted that in I.A. 2107/2017 also some misleading documents are produced by the petitioner. It is true that in Ext. P20 I asked the phone number of my friend since the reception in connection with the marriage is not over. The marriage between us is not a fake marriage as alleged in the petition. To degrade my reputation, the petitioner selected some post from my face book page and produced before this Hon'ble Court in such a manner. The conversation with Mansee Buraque is also a fabricated one for the purpose of producing in the I.A. In fact I was mocking the aforesaid Buraque since his connection with ISIS as it is against my policy as well as the policy of my political party. When our party got information regarding the aforesaid person, we removed him from our face book contact as his activities are against our nation. Our political party is only based in India and aiming the benefit of the citizens of India. We are truly patriotic and against terroristic activities of any person. We never support terrorism.

6. I am working at Muscat for the last two years. I am actively involved in social and cultural activities. I am the goal keeper of F.C. Kerala Muscat Football Team from Muscat. A copy of my post after winning the football match when I was in Muscat is produced along with the affidavit of the detinue as Ext. R8(1). The exhibits produced in the petitions of the petitioner are only some selected post and there are several other post which are produced along with the affidavit of detinue as Exhibits.

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7. It is submitted that I have completed my graduation in Islamic History from TKM College, Kollam. I am an active member of the political party namely Social Democratic Party of India (SDPI). I am one among the administrators of the SDPI, Kerala, which is a face book group formed for the active functioning of our political party. I have got connection with the detainee through 'way to Nikah'. I came to India on 22nd November, 2016 and met with Akhila with my uncle and sister on 30.11.2016 and fixed the marriage thereafter. Thereafter the marriage was solemnized on 19.12.2016.

8. It is submitted that there is nothing unusual in connection with my marriage with the alleged detainee. The marriage was solemnised as per Islamic religious rites. The marriage was duly recorded in the marriage register maintained by the Mahallu committee and they have issued a certificate to me. On receipt of the marriage certificate, I along with my wife went to the Panchayath office for registering our marriage and the above application is pending.

9. It is submitted that the investigating officer reported that a criminal case is pending against me as Crime No. 2100/2013 U/s. 143, 147, 341, 323, 294(b) r/w 149 IPC in his report dated 30/01/2017. It is registered on an incident arising out of a political issue with the AIYF activists. The trial of the above case is pending before the JFCM Court, Kollam. The security proceedings number 63/2014 was registered in connection with the above crime since it was a political issue. Subsequently the above proceeding was dropped and it is not pending now. Apart from the above crime, no other crime is pending against me in any court of law.

Hence it is most humbly prayed that this Honourable court may be pleased to accept the statements in this affidavit and pass orders accordingly.

All the facts stated above are true and correct.

Dated this the 21st day of February, 2017.

DEPONENT

Solemnly affirmed and signed before me by the deponent on this the 21st day of February, 2017, in my office at Ernakulam.

C.M. Mohammed Iqubal,
Advocate
K/95/1997

T/C

Annexure P15
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BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM

W.P.(CrI.) No. 297/2016

Asokan K.M.

:

Petitioner

Vs.

The Superintendent of Police,
Malappuram & others

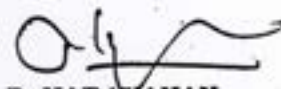
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Respondents

MEMO FILED BY THE SENIOR GOVERNMENT PLEADER

It is submitted that the report of the Deputy Superintendent of Police, Perinthalmanna dated 22.02.2017 in W.P.(CrI.) No.297/2016 is produced herewith which may be accepted on file.

Dated this the 22nd day of February, 2017



P. NARAYANAN
SENIOR GOVERNMENT PLEADER WITH AG

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Office of the
Deputy Supdt. Of Police,
Perinthalmanna Dated 22.02.2017.

From

Deputy Supdt. Of Police,
Perinthalmanna.

To

Sri.Narayanan
Senior 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 submitting the following facts for your kind consideration and favourable orders.

1. It is submitted that, pursuant to the order passed by this Hon'ble court on 07.02.2017, the documents referred in the order were forwarded to the C-DAC (Centre for Development of Advanced Computing) as per communication date 08.02.2017 itself. Apart from that, the Hon'ble Advocate General has also addressed the Director, C-DAC to have a report about the authenticity of the document referred to in the order dated 07.02.2017 by this Hon'ble Court. It is reported by the C-DAC that "the authenticity of the printed screenshots cannot be ascertained". It is also reported that "the devices such as the mobile/laptop/desktop etc. from which the messages/posts have originated need to be analysed for proof of evidence. If



the user credentials of the account holder are known, the contents of the sites such as Facebook, Gmail, Whatsapp etc. can be extracted, analysed and verified. Otherwise the companies such as Facebook, Google, Whatsapp and waytonikah.com have to be approached for obtaining the evidence". A copy of the communication dated 14.02.2017 issued by the C-DAC to this office, and the Hon'ble Advocate General is enclosed herewith.

2. It is respectfully submitted that as regards the screenshots in respect of Facebook posting of Sri. Shefin Jahan, the authenticity and genuineness may be verified by viewing the Facebook posting of Shefin Jahan through any device (Smartphone / Laptop / computer etc.) by logging in through the Facebook Account of any person. I have verified the same and it is found that the Facebook posting of Shefin Jahan are genuine and it is still seen in the facebook (though the postings can be edited by the user of the Facebook account holder). It is further submitted that I have taken statement of Shefin Jahan and questioned about his Facebook postings produced by the petitioner as Exhibit P13 to P19. Shefin admitted all these Facebook postings and given clarifications and reasons for such postings. His statement is got recorded in writing. The posting and clarification stated by him is found credible.

3. It is seen from the Facebook postings of Shefin Jahan that he is very active in this social media and used to make postings regularly. There are postings in the Facebook every day. Upto 10.01.2017 there is only two comments by Shefin Jahan indicating about his marriage conducted on 19.12.2016. There is a newspaper report on 10.01.2017 published in Kochi Edition of Mathrubhumi daily regarding the orders passed by this Hon'ble Court on 19.12.2016 and 21.12.2016 under the caption "Conversion of religion: details of marriage of the girl is to be enquired - Court". A copy of the 2nd page of Mathrubhumi daily, Ernakulam Edn. dated 10.01.2017 is

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enclosed herewith. Sri. Shefin Jahan has made a posting of the photo of his Nikah in the Facebook only on 10.01.2017 at 9.55 p.m. Thereafter on 12.01.2017 Shefin Jahan updated his profile picture by a selfie photo of himself and the detainee at 11.41 a.m. It is seen that there are so many comments received for these 2 facebook postings of 10th and 12th January 2017. Some of the comments states that the marriage between Shefin Jahan and the detainee was conducted on 19.12.2016. (comments of Sayeed Kunjome on 12.01.2017 at 12.29 p.m.)

4. From the above facts a suspicion may arise that after the publication of the news item on 10.01.2017 there may be a conscious effort to show that there is a marriage by Shefin Jahan with the detainee and the same has taken place on 19.12.2016. On enquiry about this Shefin Jahan states that on 26.12.2016 his Facebook friend Mohammed Shafi Ibnul Shoukath has asked him "whether she could not be taken to Kollam" (Facebook posting 26.12.2016 11.38 AM) the same Facebook friend has again made a comment on the same day at 11.46 AM that "Shefin just made it over with a Laddu" What is to be noted is that Shefin Jahan who is very active in the social media and postings are made day by day on all instances in his life, personal as well as social, has not indicated or made any postings anything connected with his marriage alleged to have been taken place on 19.12.2016, till 10.01.2017. Shefin's explanation is that since the Honourable High Court has ordered the Othukkungal Panchayat of Malappuram District where the registration was to be taken place to stop all proceedings regarding the marriage he did not post any thing in the Facebook with regard to his Nikhah. He adds that he has intimated about his Nikhah through Facebook Messenger to his friends Lukmanul Hakkeem on December 20 11.28 AM and Nikhila Henry on 27.12.2016 at 07.14 PM. The screen shot of the same is attached herewith. Moreover he also explains that when his Facebook friends Shafi



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Ibnul Shokath and some others met him at Malappuram he gave them Laddu in connection with his Nikhah. The comment earlier mentioned on 26.12.2016 is in connection with this.


5. It is respectfully submitted that as regards the documents produced by 7th & 8th respondents concerned, it is submitted that I have obtained the user credentials and login details of 7th respondent in the website of 'waytonikah.com' and verified the same. The photocopies of screenshots produced by the 7th & 8th respondents in respect of website 'waytonikah.com' are found to be genuine.

6. Though a detailed and thorough enquiry was conducted including the Computer Cell of the Police Department, I could not obtain any other details regarding the criminal antecedents of Sri. Shefin Jahan except what has been reported in my earlier report.

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

Dated this the 22nd day of February, 2017




M.P. Mohanachandran
Deputy Supdt. Of Police,
Perinthalmanna

22/2/17

Amended Pkt
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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 22nd day of February 2017/3rd Phalguna, 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 DISTRICT, PIN-679 001.
2. THE SUPERINTENDENT OF POLICE, KOTTAYAM DISTRICT, PIN-689 001.
3. INSPECTOR GENERAL OF POLICE, ERNAKULAM RANGE, KOCHI, PIN-682 031.
4. THE DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEADQUARTERS, TRIVANDRUM-695 001.
5. NATIONAL INVESTIGATION AGENCY,
REPRESENTED BY THE SUPERINTENDENT OF POLICE (NIA),
NO.28/443, 4TH CORSS, GIRI NAGAR, KADAVANTHRA, KOCHI, PIN-682 016,
THROUGH SPECIAL PUBLIC PROSECUTOR (NIA),
HIGH COURT OF KERALA, ERNAKULAM.
6. MARKAZUL HIDAYA,
SATHYASARANI EDUCATIONAL & CHARITABLE TRUST,
KARUVAMBRAM P.O., MANJERI, MALAPPURAM DISTRICT,
PIN-676 123, REPRESENTED BY ITS MANAGER.
7. SAINABA.A.S., SRAMBIKAL HOUSE, PUTHOOR P.O.,
KOTTACKAL, MALAPPURAM DISTRICT, PIN-679 124.

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(Criminal).

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 07-02-17 and upon hearing the arguments of M/s. C.RAJENDRAN & C.P.ANIL RAJ, Advocates 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, SRI.P.K.IBRAHIM, Advocate for R7 and of SRI.S.SREEKUMAR (SENIOR ADVOCATE) along with SRI.C.M.MOHAMMED IQUABAL, Advocates for the alleged detainee, the Court passed the following:

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

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

Dated this the 22nd day of February, 2017

ORDER

Surendra Mohan, J.

The detainee is produced in Court. The detainee has filed a counter affidavit dated 22.2.2017 producing Exts. R8(j) to R8(u) documents. A further affidavit has been filed by the 7th respondent dated 19.2.2017. Along with a memo dated 22.2.2017, the Senior Government Pleader has produced three additional documents. The counter affidavit, the further affidavit of the 7th respondent as well as the memo and documents produced by the Senior Government Pleader are taken on record.

2. The counsel for the petitioner, the learned Government Pleader as well as the counsel representing the detainee have addressed their arguments. The counsel for the 7th respondent has addressed us in part. It is submitted by him that he needs further time to complete his arguments. The counsel for the petitioner submits that he

As

would need time to reply. We have directed the Government Pleader to make available to us the file concerning the investigation conducted so far along with all the statements recorded, till date.

Post this case for further hearing on 2.3.2017 at 1.45 p.m. The detenue need not be produced on the said date. She shall continue to be accommodated at the Hostel subject to the conditions in our earlier orders. A 2

Sd/- K. SURENDRA MOHAN, JUDGE

Sd/- K. ABRAHAM MATHEW, JUDGE

/true copy/


ASSISTANT REGISTRAR

sb

Annexure P47
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**BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM**

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

Asokan K.M. : Petitioner

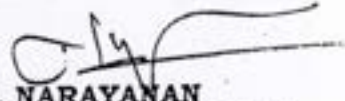
v.

Superintendent of Police & others : Respondents

STATEMENT FILED BY THE SENIOR GOVERNMENT PLEADER

It is respectfully submitted that the Deputy Superintendent of Police, Pathanamthitta has already filed a report before this Honourable Court on 22.02.2017. During the investigation of the case, the Investigating Officer has seized certain documents which are very relevant in this matter. A copy of the Vivaha Angeekara Forum issued by the Secretary, Thanveerul Islam Sangham, Puthur in respect of the alleged marriage between Sheffin Jahan and the detainee dated 11.12.2016 is produced herewith and marked as **Annexure R1 (a)**. A copy of the Marriage Certificate dated 24.12.2016 issued by the Chathinamkulam Muslim Juma Ath is produced herewith and marked as **Annexure R1 (b)**. A copy of the relevant page of Puthur Mahallu Nikah Register issued by the Secretary, Thanveerul Islam Sangham, Puthur dated 11.12.2016 is produced herewith and marked as **Annexure R1 (c)**. It appears that there are several discrepancies appear in the above documents.

Dated this the 1st day of March, 2017.


P. NARAYANAN
SENIOR GOVERNMENT PLEADER

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BEFORE THE HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM

I.A. No. of 2017
In
W.P.(Crl.) No. 297 of 2016

Applicants/ Respondents 1 to 4 in W.P.(Crl.):

1. The Superintendent of Police, Malappuram District
2. The Superintendent of Police, Kottayam District
3. The Inspector General of Police, Ernakulam Range, Kochi
4. The Director General of Police, (Law & Order),
Police Head Quarters, Trivandrum

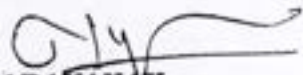
Respondents/ Petitioner and Respondents 5 to 7:
v.

1. Asokan K.M, S/o. Mani, Karattu House, (Devi Kripa),
T.V. Puram Post, Vaikom, Kottayam District, Kerala
2. National Investigation Agency, rep. by the Superintendent of Police,
(NIA), No.28/443, 4th Cross, Giri Nagar, Kadavanthra, Kochi,
through Special Public Prosecutor (NIA), High Court of Kerala,
Ernakulam
3. Markazul Hidayat, Sathyasarani Educational & Charitable Trust,
Karuvambram P.O., Manjeri, Malappuram District,
rep. by its Manager.
4. Sainaba A.S., Srambickal House, Puthoor P.O., Kottackal,
Malappuram District.

APPLICATION FILED UNDER RULE 84 OF THE HIGH COURT RULES

For the reasons stated in the statement, it is respectfully submitted that this Honourable Court may be pleased to accept the statement with annexures filed by the Senior Government Pleader in the above case.

Dated this the 1st day of March, 2017.


P. NARAYANAN
SENIOR GOVERNMENT PLEADER

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Crl. M.P. No. of 2017

In

Special Leave Petition (Criminal) No. of 2017

IN THE MATTER OF:

Shafin Jahan ... Petitioner

Versus

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

AN APPLICATION SEEKING PERMISSION
TO FILE SPECIAL LEAVE PETITION

To,

The Hon'ble Chief Justice of India and
His companion Justices of the
Hon'ble Supreme Court of India

The humble application of the
Petitioner above-named:

MOST RESPECTFULLY SHOWETH:

1. The present application seeks permission for leave to appeal against the final judgment order dated 24.5.2017 passed by the High Court of Kerala at Ernakulum in W.P.(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 Ms. Akhila (whose name has now been changed to Ms.Hadiya), (hereinafter referred to as the "Ms Hadiya"), has placed the same under house arrest. The High Court also declared the marriage of the Petitioner to Ms Hadiyanull and void.

2. The Applicant/Petitioner herein was not made a party to the Writ Petition (Crl) No. 297 of 2016. However, he is a person affected as his marriage to Ms.Hadiya has been declared to be null and void and further she has been placed in the custody of Respondent No.1 herein, through the impugned order.
3. It is stated at the outset that the Petitioner herein has been deeply grieved that the High Court has annulled his marriage to Ms Hadiya and placed her under the custody of Respondent No.1.

4. As a result of the same Ms Hadiya has been placed virtually under house arrest by Respondent No.1 and any contact with the outside world has been cut off by the Respondent No.1. Thus, as a result of the same she has been unable to approach this Hon'ble Court.
5. Further, the Petitioner has not been able to get in any contact with Ms Hadiya and is deeply grieved by the same and has therefore approached this Hon'ble Court.
8. Therefore, the Petitioner seeks the kind indulgence of this Hon'ble Court in allowing the present application in the interest of justice so that the Petitioner may challenge the impugned order.

PRAYER

- A. Pass an order granting the Petitioner permission to file special leave petition against order dated 24.5.2017 in W.P. (Crl) No. 297 of 2016 passed by the High Court of Kerala at Ernakulum.

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B. Pass any further orders as this Hon'ble court
may deem appropriate

AND FOR THIS ACT OF KINDNESS THE
PETITIONER SHALL AS IS DUTY BOUND
FOREVER PRAY.

Drawn & Filed by:

(Pallavi Pratap)

Advocate for the Petitioner

New Delhi

Filed on: 4.7.2017

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Crl. M.P. No. OF 2017

IN

SPECIAL LEAVE PETITION (Crl) NO. OF 2017

IN THE MATTER OF:-

Shafin Jahan

... Petitioner

Versus

Asokan K.M. &Ors.

... Respondents

**APPLICATION FOR EXEMPTION FROM FILING
CERTIFIED COPY OF THE FINAL JUDGMENT**

To
The Hon'ble Chief Justice of India
and his Companion Judges of
The Supreme Court of India

The Humble Petition of the
Petitioner above named

MOST RESPECTFULLY SHOWETH:

1. The present Special Leave Petition has been filed by the Petitioner against the final judgment and order dated 24.5.2017 passed by the High Court of Kerala at Ernakulum in WP (Crl.) No. 297 of 2016 wherein the the High Court of Kerala at Ernakulam 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.

2. The Counsel for the Petitioner has applied for a certified copy of the final judgment and order dated 24.5.2017 passed by the High Court of Kerala at Ernakulum in WP (Crl.) No. 297 of 2016 and the same is not yet ready. The Petitioner undertakes that he will file certified copy of the impugned judgment as soon as it is made available.

3. That this application is bonafide and it would be in the interest of justice if this application be allowed.

PRAYER

It is therefore humbly requested that this Hon'ble Court may be pleased to:

- i) Exempt the Petitioner from filing the certified copy of the final judgment and order dated 24.5.2017 passed by the High Court of Kerala at Ernakulum in WP (Crl.) No. 297 of 2016 and;
- ii) pass such further or other orders as this Hon'ble Court may deem fit and proper.

Filed by

(PALLAVI PRATAP)
Advocate for Petitioner

Date: .7.2017

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Crl.M.P. No. of 2017

In

Special Leave Petition (Crl) NO. OF 2017

IN THE MATTER OF:

Shafin Jahan

... Petitioner

Versus

Asokan K.M. &Ors.

... Respondents

**APPLICATION FOR PERMISSION TO PLACE
ON RECORD ADDITIONAL DOCUMENTS**

To,

The Hon'ble Chief Justice of India and

His companion Justices of the

Hon'ble Supreme Court of India

The humble application of the

Petitioner above-named:

MOST RESPECTFULLY SHOWETH:-

1. The present Special Leave Petition has been filed by the Petitioner against the final judgment and order dated 24.5.2017 passed by the High Court of Kerala at Ernakulum in WP (Crl.) No. 297 of 2016 wherein the the High Court of Kerala at Ernakulam 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.

2. The Petitioner herein seeks permission of this Hon'ble Court to refer to the facts stated in the special leave petition for the sake of brevity.
3. By virtue of this application, the Petitioner seeks permission to place on records certain documents which are essential to the adjudication of the matter but could not be

filed along with the Special Leave Petition in view of the fact that they are dated after the impugned order dated 24.5.2017.

4. The documents in question are as follows:
 - a) The petition dated 24.5.2017 under Rule 150 of the High Court Rules filed by the Detenue is attached herewith and marked as **Annexure P-48(Pages 506-507)**
 - b) The post dated 24.6.2017 sent by the Petitioner to the Detenue along with the note returned is attached herewith and marked as **Annexure P-49(pages 508-509)**
5. It is reiterated that the aforementioned documents are essential for the proper adjudication of the present case and the sole reason for them not being filed along with the SLP was due to the fact that they were being translated.
6. This application has been filed in the interest of justice.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to

- (a) grant permission to place on record additional document **Annexure 48, Annexure 49** in the present Special Leave Petition against the final judgment and order dated 24.5.2017 passed by the High Court of Kerala at Ernakulum in WP (Crl) no. 297 of 2016 and
- (b) pass any other order/s as deem fit and proper to meet the ends of justice.

Filed by:

(Pallavi Pratap)

Dated: 4.7.2017 Advocate for the Petitioner

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Annex-48

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

Akhila Asokan @ Hadiya, D/o. Asokan,
aged 24 years, Srmbikkal House, Puthoor PO, Arichol,
Tirurangadi Taluk, Malappuram District.

Vs.

Respondents/Petitioner & Respondents: -

- 1) Asokan K.M., S/o. Mani, aged 56 years,
Karattu House, (Devi Kripa), T.V. Puram Post,
Vaikom, Kottayam District, Pin -
- 2) The Superintendent of Police, Malappuram District,
Pin - 679 001.
- 3) The Superintendent of Police, Kottayam District,
Pin - 689 001.
- 4) Inspector General of Police, Ernakulam Range,
Kochi, Pin - 682 031.
- 5) The Director General of Police (Law and order)
Police Head Quarters, Trivandrum - 695 001.
- 6) National Investigation Agency, represented by
The Superintendent of Police (NIA), No. 28/443, 4th Cross, Giri Nagar,
Kadavanthra, Kochi - 682 016, through Special Public Prosecutor (NIA),
High court of Kerala, Ernakulam.
- 7) Markazul Hidayat, Sathyasarani Educational & Charitable Trust,
Karuvambram P.O., Manjeri, Malappuram District,
Pin - 676 123, represented by its Manager.
- 8) Sainaba A.S., Srambickal House, Puthoor P.O.,
Kottakkal, Malappuram District, Pin - 679 124.

PETITION FILED UNDER RULE 150 OF THE HIGH COURT RULES

1. I am the counsel appearing for the alleged detainee in the above Writ Petition (Crl.). Since the alleged detainee is in the custody of this Hon'ble Court in a hostel, I am filing this petition without the affidavit of the alleged detainee. As per the order of this Hon'ble Court, the alleged detainee is not permitted to

interact with her counsel also. Therefore, I was not in a position to get instruction from her at any stage, after sending her to the hostel. In this circumstance, I am forced to file this petition without the affidavit of the alleged detainee.

2. It is submitted that the last posting of this case was 02/03/2017. On that day, the alleged detainee was not present before this Hon'ble Court. Before that the case was posted on 22/02/2017. On that day, the alleged detainee told me that she is not willing to go with her parents. Today this Hon'ble Court was pleased to dispose the above writ petition allowing the same granting custody of the alleged detainee to her parents. As per my instructions, she is not willing to reside with her parents and she does not want to go with them. I was told that if the result of the writ petition is goes against her wishes, she would file an appeal against the judgment of this Hon'ble Court before the Hon'ble Supreme Court of India.

3. It is submitted that this Hon'ble Court passed the judgment today allowing the writ petition and granting the custody of the alleged detainee to her parents. Since she is residing in the hostel and she is not brought to this Hon'ble Court, at the time of passing of the judgment. Before that also she was not asked that whether she is willing to go with her parents. As per my instructions earlier received, the order granting custody to the parents of the alleged detainee is against her will. Therefore, she would file an appeal against the judgment of this Hon'ble Court as instructed earlier. In this circumstance granting custody of the alleged detainee to the parents will adversely affect her interest. Therefore, it is highly necessary to permit her to remain in the hostel for a period of two weeks from today or till filing of appeal before the Hon'ble Supreme Court of India.

4. Hence it is most humbly prayed that this Hon'ble Court may be pleased to pass an order permitting the alleged detainee to remain in the hostel for a period of two more weeks or till filing of the appeal against the judgment of this Hon'ble Court before the Supreme Court of India.

Dated this the 24TH day of May, 2017.

Counsel for the petitioner/alleged detainee

Ameme - Pg
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DEPARTMENT OF POSTS, INDIA

Received Registered Letter/Parcel/_____

No. Dated of

Insured for Rupees

Addressed to:- Hadiya @ Akhila Asokan, Devikripa
TV Puram PO, Vaikkom, Kottayam-686606

Date Stamp of office of delivery
name

Signature and

RLAD T.K.M College <691005.
A R L023893289IN
Coutner No.1;OP-Code:11

Wt: 20 grms,24.6.2017 11:29

To : Thirumani Venkita Puram S <686606)

"Refused by Guardian - 27/6/17"

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Registered with AD

From

Shatin Jana S.
Ehivayil Puthan Veedu
Chathinani Kulam
Thandanathro PO
Kollam - 691014

To

Hadiya
Akhila Asokan
Devikripa
Vaikkom
Kottalaym
PIN-68606

5/0

PALLAVI PRATAP
Advocate,
Supreme Court of India
New Delhi-110 001.

Dated: 6.7.2017

To,
The Registrar
Supreme Court of India
New Delhi.

Re: SLP (G) No. of 2017 Diary No. 19702 of 2017
Shafin Jahan Vs. Asokan K.M. & Ors.

Sir,

In the captioned matter, the Petitioner herein has filed an Application for Directions separately along with the special leave petition. It is clarified that the application for directions has been filed separately to direct the DGP, Kottayam, Kerala to produce the persons named Ms. Hadiya, who has been detained by the Respondent No.1. The application for directions has been filed separately as Ms. Hadiya is not one of the Parties of the Special Leave Petition. As Ms. Hadiya's presence is important for the proper adjudication of the matter therefore, specific directions are sought to be issued in the matter.

Thus, it is prayed that the application for directions be allowed to be filed separately and the SLP may be numbered at the earliest.

Sincerely,

(Pallavi Pratap)

Advocate for the Petitioner

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Crl. M.P. NO. 53789 OF 2017

IN

SPECIAL LEAVE PETITION (Crl.) NO. _____ OF 2017

IN THE MATTER OF:-

Shafin Jahan

... Petitioner

Versus

Asokan K.M. &Ors.

... Respondents

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PAPER - BOOK
(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER:-PALLAVI PRATAP

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Crl. M.P. NO. OF 2017
IN

SPECIAL LEAVE PETITION (Crl) NO. OF 2017

IN THE MATTER OF:-

Shafin Jahan

... Petitioner

Versus

Asokan K.M. &Ors.

... Respondents

APPLICATION FOR DIRECTIONS

To
The Hon'ble Chief Justice of India
and his Companion Judges of
The Supreme Court of India

The Humble Petition of the
Petitioner above named

MOST RESPECTFULLY SHOWETH:

1. The Petitioner herein has filed the present
aforementioned special leave petition challenging
the order dated 24.5.2017 in W.P. (Crl) No. 297
of 2016 passed by the Hon'ble High Court of
Kerala at Ernakulam.
2. The Writ Petition aforementioned was filed by
the Petitioner herein challenging the Judgment of
the High Court of Kerala at Ernakulam dated
24.5.2017 in WP (Crl) No. 297 of 2016 whereby

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the High Court had allowed the writ of habeas corpus filed by the Respondent No.1 herein, 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 by the Respondent No.1. By virtue of the impugned order, the Ld Division Bench has declared that the marriage between the Detenue and the Petitioner, as a sham and being "of no consequence in the eye of the law". Most noticeably, the aforementioned findings concerning the marriage of the Petitioner and Detenue have been arrived at without even hearing the Petitioner.

3. The present dispute pertains to the right of a consenting adult to profess the religion of his/her choice and marry an individual of her choosing. Both rights falling under the purview of Articles 21 and 25 of the Constitution.
4. Despite the fact that the Detenue voicing her unequivocal intention to remain married to the Petitioner, the High Court illegally annulled their marriage and ordered her into the custody of the Respondent No.1.

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5. The Respondent No.1 , after taking the Detenue into his custody has completely cut off any and all contact between the Detenue and the outside world. The Petitioner has reliably learnt that apart from himself, the Detenue has been prevented from contacting any and all of her other friends and acquaintances.
6. Further, the Petitioner has been completely restricted from contacting the Detenue. When the Petitioner attempted to send a letter to the Detenue to ascertain well being, the letter was returned with the note "refused by guardian" . Clearly, the Respondent No.1 is blatantly infringing upon the right of the Detenue to live a dignified life with all the liberty and freedom of a consenting adult of sound mind. A True Copy of the post dated 24.6.2017 sent by the Petitioner to the Detenue, along with the note has been attached herewith and marked as **Annexure A-1(Pages 518-519)**
7. Further, since the date of the Impugned Order on 24.5.2017 the Detenue has not had contact with even Respondent No.8, who had been

appointed as her guardian by the High Court in WP(Crl)No. 25 of 2016.

8. In the background of the actions perpetrated by the Respondents, the Petitioner is immensely apprehensive about the safety of the Detenue under the custody of the Respondent. This is doubly so on account of the fact that the Respondents are immensely aggrieved by the actions of his daughter in converting to Islam and her subsequent marriage to the Petitioner. The wild and baseless allegations made, and the recurrent institution of proceedings against the Petitioner indicate that the Respondent No.1 would go to any means to prevent the Detenue from exercising her free will. Most importantly, the Petitioner cannot rule out Respondent No.1 causing bodily harm to the Detenue.
9. Therefore, in view of the same, the Petitioner has been constrained to file the present Application , seeking a direction to the Respondent No.1 to produce the detenue before this Hon'ble Court. This would enable this Hon'ble Court to ascertain the nature of the Detenues wishes in an environment free from threat of harm.

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10. It is submitted that the Detenue's wishes are paramount in the present scenario and therefore her statement would be of utmost prevalence to the present dispute. The Petitioner is sure that under the custody of Respondent no.1, she would not be permitted to speak freely.
11. Therefore, in view of the same, it would be deemed expedient to direct the Director General of Police, (Law and Order), Vaikom, Kottayam, Kerala to produce Ms. Akhila (name hereinafter changed to Ms. Hadiya), also the Detenue, before this Hon'ble Court so as to meet the ends of justice.
12. This Application is bona fide and made in the interest of justice.

PRAYER

It is therefore humbly requested that this Hon'ble Court may be pleased to:

- i) Direct the Director General of Police, (Law and Order), Vaikom, Kottayam, Kerala to produce Ms. Akhila (name hereinafter changed to Ms. Hadiya) (the Detenue before this Hon'ble Court and;
- ii) pass such further or other orders as this Hon'ble Court may deem fit and proper.

Filed by

(Pallavi Pratap)
Advocate for Petitioner

Date: 4.7.2017

Annexure - A,
5.1.8

DEPARTMENT OF POSTS, INDIA

Received Registered Letter/Parcel/_____

No. Dated of

Insured for Rupees

Addressed to:- Hadiya @ Akhila Asokan, Devikripa
TV Puram PO, Vaikkom, Kottayam-686606

Date Stamp of office of delivery
name

Signature and

RLAD T.K.M College <691005.
A R L023893289IN
Coutner No.1;OP-Code:11

Wt: 20 grms,24.6.2017 11:29

To : Thirumani Venkita Puram S <686606)

"Refused by Guardian - 27/6/17"

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Registered with AD

From

To

Shatin Jana S.
Ehivayil Puthan Veedu
Chathinani Kulam
Thandanathro PO
Kollam - 691014

Hadiya
Akhila Asokan
Devikripa
Vaikkom
Kottalaym
PIN-68606

TLC