

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
SPECIAL LEAVE PETITION (CRL) NO.5777/2017

In the matter of:

Shafin Jahan : Petitioner

Versus

Asokan K.M. & others : Respondents

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ADVOCATE FOR THE IMPEADED RESPONDENT  
: SAYID MARZOOK BAFAKI

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...Petitioner

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AFFIDAVIT

I, Akhila Asokan @ Hadiya, aged 26 years, d/o. Asokan, at present staying in the Hostel of the Sivaraj Homoeopathic Medical College, Salem, Tamilnadu, do hereby solemnly affirm and declare as follows:-

1. By the Order dated 23.1.2018 in the above Special Leave Petition, this Hon'ble Court was pleased to implead me as a Respondent in the present special leave petition and to allow me to file my affidavit before this Hon'ble Court. I am aware of the facts and circumstances of the case. I am competent to swear this affidavit.

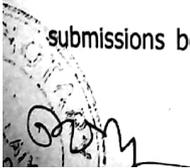
2. I have attained formal education upto B.H.M.S. and now I have been undergoing house-surgeency at the Sivaraj Homoeopathic Medical College at Salem pursuant to the Order dated 27.11.2017 passed by this Hon'ble Court in the above case.

3. I hereby submit that I embraced the faith/religion of Islam on my choice as per my conscience and on my own free will after studying about Islam and thereafter I married a person, namely Shafin Jahan, the Petitioner herein, from the same faith as per my choice and on my own free will. However, despite the fact that I submitted repeatedly on affidavit, through my counsel and also in person, as the case may be, before the Hon'ble High Court of Kerala that-I made the above choices (of my religion and my life-partner) on my own free will, the Bench of the High Court did not heed to my



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submissions. Thereafter, I was subjected to horrible torture and torments for a period of more one year as narrated in the following paragraphs. I was confined in a Hostel pursuant to the order of the Division Bench of the High Court of Kerala dated 22.8.2016. The said confinement continued for a period of more than six months, i.e. from 22.8.2016 till another Division Bench of the Hon'ble High Court released me from confinement by the order dated 27.9.2016, but the same was imposed again through order dated 21.12.2016 and continued till the date of the impugned judgment dated 24.5.2017. As a result of the impugned judgment dated 24.5.2017, my marriage with the Petitioner was set aside, against the will of my husband and me. The same was also done despite the absence of any such prayer in the writ petition to set aside my marriage, and giving me against my will to the custody of the writ petitioner (my father), who kept me in house-arrest since 24.5.2017 (the date of the impugned order) to 25.11.2017 till this Hon'ble Court directed that I be released vide Order dated 27.11.2017. It may kindly be noted that even though the matters as also my opinion in person had been heard on various occasions by different Benches of the Hon'ble High Court, no other Bench has ever disbelieved me nor caused deprivation of my fundamental rights and freedom, rather protected my rights and freedom. All these facts are evident from the various interim orders and judgments passed by different Benches of the Hon'ble High Court of Kerala in the two successive Habeas Corpus Writ Petitions, viz. WP(CrI) No.25/2016 and WP(CrI) No.297/2016, filed in relation to me. The said interim orders and judgments are dated 19.1.2016 and 25.1.2016 in WP(CrI) No.25/2016 and dated 22.8.2016, 27.9.2016, 14.11.2016, 21.12.2016, 6.1.2017 and 24.5.2017 in WP(CrI) No.297/2016. However, through the impugned Judgment the Hon'ble Bench put me under confinement and annulled my marriage despite my many affidavits and submissions before the Hon'ble Bench clarifying that the reason for my not



accompanying my parents is that they do not accept me as a Muslim and that they would not allow me to live as a Muslim (paragraph 26 of the Impugned Judgment, paragraph 3 of the Interim order dated 22.8.2016 passed by the Hon'ble High Court of Kerala and paragraph 4 of my Affidavit dated 24.10.2016 filed before the Hon'ble High Court). My counsel's also pleaded before the Ld. Division Bench of the High Court to interact with me, to verify whether it was under the influence of anyone or under coercion that my marriage was performed. I also expected the Ld. Division Bench to interact with me, however they chose otherwise.

4. I hailed from a moderate Ezhava family at the place called TV Puram, Vaikom, Kottayam district in Kerala. After my 12th standard education, I was admitted to B.H.M.S. course at the Sivaraj Homoeopathic Medical College at Salem in Tamilnadu. My father is an atheist. But, my mother was keen on practicing Hindu Dharma. I also followed my mother's belief, since I hailed from such a background and village, where there is no Muslim, to my knowledge, and Islam was not at all known to me in my childhood.

5. When I reached the College at Salem in 2010, I made many friends, who were also Keralites from different parts of Kerala. Since all of us (my Keralite friends and me in the college at Salem) were Malayalam speaking persons, we easily acquainted and made friendship with each other. Among all my friends Ms Jaseena and Ms Faseena, who are sisters, have been very close to me and I am one of the roommates of Ms Jaseena. I was impressed by their good natured behaviour, character, culture and practice. When I queried about the reason for their good nature, they replied that it is their duty to behave smoothly and affectionately with others, since we all are human beings and creatures of Almighty God. Their life-style, magnanimity, kindness towards others, morality, etc. inspired me to learn more about Islam

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and I started learning by reading Islamic books. After gathering sufficient knowledge, in 2013, I decided on my own free will to accept Islam as my faith and religion, because I was impressed by Islam. Hence, I declared my faith in Islam and started to follow it. I used to perform Namaz (prayer to Almighty God) in my room. Even when I came home, I continued my prayers. Once, my father happened to see me offering Namaz and he warned me against Islam saying that it is a religion of terrorism. Thereupon, I was forced to keep my faith in Islam as a secret at least at home. While being so, my grandfather died in November 2015, when I was at Salem. I came back home. As per Hindu custom, my father being the eldest son of the deceased had to perform the customary ritual called "Bali", but he refrained from doing the ritual as he is an atheist. I also refrained from such ceremonies on the 1<sup>st</sup> day as it was against my faith, but on the 2<sup>nd</sup> day my relatives forced me to participate in the rituals and therefore I had to oblige. Being a Muslim, who believes in monotheism, which is the basic pillar of my faith and not to practice any kind of idol-worship, this incident caused deep mental agony to me and I got determined to disclose my Islamic faith and to become a Muslim officially; otherwise in future also, I would have to involve in such rituals, which are against my conscience and prohibited in Islam.

6. On 2.1.2016, on my own free will, I left home with the determination of accepting Islam officially and I went directly to my friend Jaseena, whose house is at Perintalmanna in Malappuram district, Kerala, and explained to Jaseena about the ordeal that I had to undergo performing "Bali" against my faith and conscience, and sought her help to become Muslim officially. My friend informed that her father Mr Aboobacker could help me in this regard and he promised to get me admitted to an institution imparting teachings of Islam. Accordingly, along with my friends' father I approached the institution namely Kerala Islamic Mission (KIM). They informed that since



I didn't possess any certificate for having converted to Islam, they cannot admit me to their Institution. Thereafter, we approached another Institution namely Tharblathul Islam Sabha at Calicut, which is one of the Institutions recognized by the Government of Kerala. The concerned authority at the Tharblathul Islam Sabha said that they can admit me as an external candidate only and issue books and syllabus for the course relating to Islamic studies. Upon submission of my affidavit stating that I embraced Islam on my own free will, and that there was no inducement or promises from anybody for that and that I desire earnestly to live and die as a Muslim only, I got admission there as an external candidate for writing the exam relating to Islamic studies.

7. On 4.1.2016, my friends' father namely Mr Aboobacker and I approached another institution in Malappuram district namely Markazul Hidayah Sathyasarani Educational & Charitable Trust to explore whether I could be admitted to its hostel. The officials in that institution said that the concerned person for admission is not available and therefore asked us to report after two days. Therefore, I returned along with Mr Aboobacker to his home, where I stayed from 2.1.2016 to 4.1.2016. On 5.1.2016, I went to Salem. On 6.1.2016, I went to the college at Salem wearing a head-scarf (it was not any "burqa" as alleged by my father; Head-scarf is only a shawl covering head, except face, whereas "burqa" means "Parda", i.e. a long-loose garment covering the whole body) declaring openly my change of faith. When my friends in college asked about my head-scarf, I told them that I have officially become a Muslim. Then, one of my friends Archana, asked me whether I had informed my parents about this. I answered her in the affirmative. Thereafter, at about 3 p.m. on that day, I got a phone call from my mother saying that my father had met with an accident and sustained injury to legs and that I should come home immediately. It was my thought

that the said information was a cooked up to compel me to get at home and therefore, I returned to my aforesaid friends' house at Perinthalmanna in Malappuram district and requested the aforesaid institution namely Markazul Hidayah, that I want to get admitted to the institution. All these facts have been stated in my Affidavit dated 19.1.2016 (Annexure-P5 to the SLP) filed before the Hon'ble High Court in the first habeas corpus petition [WP(Cr) No.25/2016]. Accordingly, on my request, the officials of the said institution requested Smt. Sainaba, who is a lady volunteer of the Kerala Legal Service Authority, to meet and help me as I wanted to get admitted to the institution. Accordingly, Smt. Sainaba, who also resides in the same district along with her husband and two children, came to my friend Jaseena's house to meet me. Seeing the difference of opinion between Mr Aboobacker and me (Mr Aboobacker insisted that I go to my father, but I was against his opinion), she left the place leaving the matter to be sorted out between us. Later, I left my friend Jaseena's house, approached Smt. Sainaba and requested for her help, and she was gracious enough to help me at that moment of crisis. On my request, she permitted me to stay in her house from 7.1.2016 onwards.

8. Meanwhile, on the basis of a complaint made by my father, the police at Perinthalmanna in Malappuram district registered a case as Crime No.21/2016 for a missing woman. In connection with the said F.I.R., the police arrested the aforesaid Mr Aboobacker (my friend Jaseena's father). On 11.1.2016, I sent a registered letter to my father informing him of the fact that I left home on my own will in order to protect my faith, that due to his complaint, my friends, my friends' father and myself are being harassed by the police and therefore requested him not to pursue with the complaint. Further, I sent another letter to the Director General of Police, Kerala, with its copy to the Circle Inspector of Police, Perinthalmanna and to the Sub Inspector of Police, Vaikom (my home town) stating the facts that I left home

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on my own volition, that I embraced Islam which I have been practicing for the past about 3 years, that I would like to live as a Muslim, that the complaint made by my father is false and intended only to harass my friends and me and therefore requested the police to desist from proceeding any further with the complaint made by my father.

9. Aggrieved by the constant threat and harassment from the part of the police, I along with Smt. Sainaba filed a writ petition – WP(C) No.1965/2016 – before the Hon'ble High Court of Kerala against the police harassment. On 18.1.2016, when the said writ petition was taken up, the Hon'ble High Court of Kerala was pleased to direct the learned Government Pleader to instruct the police not to harass us. Meanwhile, my father filed his 1<sup>st</sup> Habeas Corpus writ petition – W.P.(Cri) No.25/2016 – before the Hon'ble High Court of Kerala seeking *"a writ of habeas corpus commanding respondents to cause the production of the detenu Akhila Asokan aged 23 years, daughter of Asokan, Karattu House (Devi Kripa), TV Puram PO, Vaikom, Kottayam district who is now kept under the illegal detention of the respondents No.4, 7 and 8 and their henchmen, before this Hon'ble Court and set her at liberty, forthwith."* In that writ petition, I filed an affidavit dated 19.1.2016 narrating the aforesaid true facts, along with an application for impleading me as additional respondent No.9. On 19.1.2016, when the habeas corpus writ petition was taken up, I along with Smt. Sainaba appeared in person before a Division Bench of the Hon'ble High Court. The Hon'ble Judges interacted with us and during the interaction I reiterated in person the aforesaid facts and that I am staying with Smt. Sainaba on my free will and also my intention to join the institution under the Markazul Hidayah Sathyasarani Educational & Charitable Trust to pursue Islamic studies and also that I am not under any illegal confinement. Accordingly, the Hon'ble High Court was pleased to pass an interim order dated 19.1.2016 recording



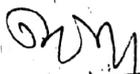
the above facts and allowing me to go along with Smt. Sainaba, to stay in her house and also to join the aforesaid Institution. The Hon'ble High Court adjourned the case for further consideration, directing to produce proof regarding my admission to the said Institution. In view of the said order dated 19.1.2016 in the habeas corpus writ petition, our counsel sought permission of the Hon'ble High Court to withdraw our writ petition - WP(C) No.1965/2016 filed against police harassment - and accordingly, by the Judgment dated 21.1.2016, recording the said fact of permission sought by us to withdraw in the light of the order dated 19.1.2016 in WP(CrI) No.25/2016, our writ petition - WP(C) No.1965/2016 - was dismissed as withdrawn.

10. On 25.1.2016, the relevant documents showing that I was admitted to the institution on 20.1.2016 for two months long course of Islamic studies was produced before the Hon'ble High Court and it was submitted before the Hon'ble Court that I have been staying in the Hostel of the said institution namely the Markazul Hidayah Sathiyasrani Educational & Charitable Trust. Ultimately, recording a true and clear finding that the Division Bench of the Hon'ble High Court is convinced that I am not under any illegal confinement and that there exists no circumstances warranting interference for issuance of any writ of habeas corpus, the Hon'ble High Court of Kerala disposed of the 1<sup>st</sup> habeas corpus writ petition - WP(CrI) No.25/2016 filed by my father - vide the Judgment dated 25.1.2016. Even though the Hon'ble High Court had observed in the said judgment dated 25.1.2016 in WP(CrI) No.25/2016 that it would be left open to my father and family members to visit me at the institution, nobody visited me. However, I was in constant touch with my parents over the phone.

11. On 21.3.2016, I completed my course in the institution under the Markazul Hidayah Sathiyasrani Educational & Charitable Trust. Thereafter,



on 22.3.2016, I went to my college at Salem to continue my House Surgeoncy. But, in the meantime, my father went to my hostel in Salem and removed my entire certificates from there. Due to lack of co-operation from my friends there, I could not stay there and therefore I returned from the college after submitting an application for No Objection Certificate from the college to complete my House Surgeoncy in any other college and returned to Malappuram and continued to stay with Smt. Sainaba. Since then and till 22.8.2016, when the Division Bench of the Hon'ble High Court of Kerala, entertaining the 2<sup>nd</sup> Habeas Corpus petition of my father as explained in the following paragraphs, ordered the police, by way of an Interim order, to place me in a hostel at Ernakulam against my will, I had been staying in the house of Smt. Sainaba only. During the same period, I had not gone anywhere, nor had I been missing. During the same period nobody came enquiring about me. The same facts can be cleared by verifying my mobile location. Yet, my father wrongfully alleges that I was missing for one month. Neither my father nor anybody from my family visited me, either in the institution or in the house of Smt. Sainaba. However, I continued to contact my parents over the phone as usual. While being so, I expressed my desire to Smt. Sainaba to have a family life and to find out a matching Muslim bride-groom. Thus, on 17.4.2016, my expression of interest for marriage inviting suitable alliance was registered with a matrimonial website namely "Way to Nikah". About 50 responses were received from various persons. Meanwhile, I collected the Certificate on 25.7.2016 from the aforesaid Tharbiyathul Islam Sabha at Calicut certifying that I namely Hadiya have embraced Islam. While being so, I got the proposal of Shafin Jahan (my husband) after seeing the expression of interest on the website. Thereafter, we spoke to each other over the phone and communicated with each other by whatsapp, sharing photos and eventually decided to proceed further for marriage. He came from



his workplace in Muscat and thereafter visited me in November 2016 along with his sister Shahala Jahan and his uncle Mr. Syadkutty at Smt. Sainaba's house, where I had been staying. I had a detailed interaction with them and ultimately finalized to solemnize the Nikah (marriage) on 19.12.2016, because Shafin Jahan had to go back to Muscat the following month to join a new job. I wrote a letter to Smt. Sainaba's husband requesting him to do the necessary steps to solemnize my Nikah with Shafin Jahan. On 13.12.2016, I wrote another letter to Janab Syed Hyder Ali Shihab Thangal, who is the Khazi of Puthoor Mahal coming within the area where myself and Smt. Sainaba had been residing and where the Nikah was proposed to be solemnized, requesting to do the needful to solemnize my Nikah with Shafin Jahan, which was fixed for 19.12.2016. Thereupon, Janab Syed Hyder Ali Shihab Thangal authorized Janab Abdul Rahman Dharimi, who is the Imam of Puthoor Juma Masjid Mahal to solemnize the Nikah. Thus as per the Muslim personal law and Islamic religious rites, my Nikah (marriage) with Shafin Jahan was solemnized on 19.12.2016 at Smt. Sainaba's house in the presence of the relatives of my husband Shafin Jahan, Smt. Sainaba, her family members and the other invitees consisting of her neighbours and residents from the Puthoor Mahall Jama-ath.

12. In the meantime, on 16.8.2016, my father again filed another habeas corpus writ petition, i.e. WP(Crl) No.297/2016 before the Hon'ble High Court of Kerala, seeking to *"issue a writ of habeas corpus directing respondents 1 to 5 to produce the detenu 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"*.

13. On 22.8.2016, I appeared before the Hon'ble High Court of Kerala along with Adv. Sanjay and submitted that I am not under any illegal



detention, that I am residing with Smt. Sainaba and that I am not having a passport to go abroad. The Division Bench of the Hon'ble High Court interacted with me for more than 2 ½ hours in Chamber of the learned Judge. I submitted in person before the learned Judges that I have become a Muslim since the year 2013, that my parents do not accept me as a Muslim, that I don't want to accompany my parents and that I want to continue to stay with Smt. Sainaba, who is my guardian of my choice. However, through the interim order dated 22.8.2016 in WP(CrI) No.297/2016, the Division Bench directed the police to confine me in a hostel at Ernakulam against my wish and will, and directed further that except my parents, nobody else would be permitted to meet or interact with me and that I should not be permitted to possess or use even a mobile phone. Thus, I was put in confinement from 22.8.2016 as ordered by the Hon'ble High Court.

14. On 27.9.2016, I submitted a statement before the Hon'ble Judges complaining that for no fault of mine, I am confined in the above manner in a hostel at Ernakulam for the past 35 days depriving my right to even use a phone. Then, the Division Bench, after having interacted with me and my parents, passed an interim order holding as follows.

*"we are of the opinion that in the light of the finding entered by this Court in the earlier round of litigation that the 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... We accordingly permit the detenue to reside at a place of her choice."*

At this juncture, the advocate for my father, sought for an order to maintain status quo. When the Hon'ble Court asked him as to what he meant by status quo, he said that I would be wedded to somebody and by status quo he meant non marital status. Then, the Hon'ble High Court rejecting his request



said openly that *"This court cannot interfere in such personal matters"*. Thus, I was released from the hostel, where I had been remaining confined by the earlier interim order dated 22.8.2016. Thereafter, I sent a letter by speed post dated 19.10.2016 to my father explaining the trauma and mental harassment I had undergone during my confinement in the hostel and requested him to close the case.

15. On 24.10.2016, I filed a counter affidavit in WP(CrI) No.297/2016 before the Hon'ble High Court. As directed in the earlier order, I appeared in person before the Hon'ble High Court on 24.10.2016, but the case was not taken up. The case was adjourned to 26.10.2016 and then to 27.10.2016, when the Hon'ble High Court was pleased to dispense with my appearance until further orders.

16. On 14.11.2016, the Division Bench of the Hon'ble High Court passed an interim order directing me to file an affidavit disclosing my source of income with facts and figures and to produce my proof of educational qualifications. On the same day, the Division Bench directed Smt. Sainaba also to file her affidavit disclosing her source of income and the details of income of her husband and a copy of her ration card. Accordingly, Smt. Sainaba filed her affidavit dated 25.11.2016.

17. As per the provisions under the Kerala Registration of Marriages (Common) Rules, 2008, it is mandatory to register a marriage within 45 days of the marriage and for that purpose both the husband and wife should be present before the registering authority. So, on 20.12.2016, we (my husband Mr Shafin Jahan and myself) appeared in person before the Local Registrar (i.e. the Secretary, Othukkungal Panchayat in Malappuram district), submitted our application for registration of marriage, complied with all the necessary formalities and signed in the relevant Register. As per Rule 11 of the said

Rules, the marriage shall be registered, as far as possible, the same day itself on which the application is made.

18. By an Interim order dated 19.12.2016, the Hon'ble High Court directed me to be present in court on 21.12.2016. I got the information about the order on 20.12.2016. Accordingly, on 21.12.2016, I appeared before the Hon'ble High Court along with my husband. The marriage certificate dated 20.12.2016 issued from the Muslim Mahall Jama-ath and the receipt dated 20.12.2016 issued from the Othukkungal Panchayat showing submission of the application by us for registration of our marriage under the aforesaid Rules and payment of fees in respect thereof were submitted before the Hon'ble High Court. But, on the same day, the Division Bench passed an interim order directing the police to confine me in SNV Sadanam Hostel at Ernakulam until further orders, and **not to permit me to possess or use mobile phone and not to permit anybody other than my parents to meet me.** In the said interim order, it was further directed that the Superintendent of Police shall cause an investigation to be conducted into my husband's education, family background, antecedents and other details. It was also directed that the Superintendent of Police shall enquire into the circumstances surrounding the conduct of my marriage, the persons who were involved, etc. and their antecedents and that a report of the investigation shall be placed before the court before the next hearing date, that the Director General of Police shall oversee the investigation and see that all relevant details are unearthed and placed before the Bench including any links with extremist organizations and that the Secretary of the Othukkungal Grama Panchayat, where we had applied for registration of our marriage as stated above, should not issue the marriage certificate. Thus, from 21.12.2016 onwards, I was again put in confinement in a hostel at Ernakulam against my will without permitting me to meet or being met by anybody other

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than my parents or to use a phone for the simple reason that my marriage is over. Thereafter, as per the interim orders being passed in the matter from time to time by the same Division Bench of the Hon'ble High Court, the Deputy Superintendent of Police (for short, Dy S.P.) continued with investigations and kept filing investigation reports before the Hon'ble High Court.

19. On 31.1.2017, I filed an affidavit (Annexure-P39 to the SLP) in view of the direction of the Hon'ble High Court. In that affidavit, I produced necessary details including relevant documents relating to my marriage. On 31.1.2017, the same Division Bench of the Hon'ble High Court passed another interim order directing Smt. Sainaba to file an affidavit explaining the circumstances under which the marriage proposal originated, the person at whose instance I was registered at the matrimonial site, the manner in which the marriage proposal was considered and conducted. It was also directed that Smt. Sainaba "shall also disclose in her affidavit the details of the organizations in which she is a member". Accordingly, she filed her affidavits (Annexures-P41 and P43 to the SLP) before the Hon'ble High Court.

20. On 7.2.2017, the Division Bench of the Hon'ble High Court passed another interim order (Annexure-P42 to the SLP) adjourning the case to 22.2.2017 by observing that it wanted to know whether the documents produced by me and Smt. Sainaba along with our respective affidavits are genuine or not and also by observing that "*We are also anxious to ascertain the criminal antecedents of Shri. Shefin Jahan, who is alleged to have married the detenué .:*"

21. On 22.2.2017, I filed before the Hon'ble High Court a Counter Affidavit along with my husband's affidavit dated 21.2.2017 (Annexure-P44 to the SLP) and some other documents mentioned in the affidavit. In the said

Counter Affidavit dated 22.2.2017, I had very clearly stated as follows:

"6. 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 embraced 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. The marriage was conducted with my full knowledge and consent. As an adult person I have every right to select my better half. Accordingly, I selected Shafin Jahan as my husband and our marriage has been conducted as per Islamic religious rights as we both are following Islam."

The Dy S.P. at Perinthalmanna, who was the investigating officer, filed a report dated 22.2.2017 (Annexure-P45 to the SLP) before the Hon'ble High Court specifically stating that he made necessary verifications and found that the documents produced by us are genuine. Apart from the said report, in compliance with the various interim orders passed by the Hon'ble High Court, the investigating officer had submitted from time to time a number of other investigation reports as well before the Hon'ble High Court in relation to all matters including passport, Smt. Sainaba, the institution where I underwent Islamic studies, my husband, marriage, conversion, etc. etc. Thereafter, the Division Bench reserved the case – WP(CrI) No.297/2016 - for judgment.

22. On 24.5.2017, the Division Bench of the Hon'ble High Court delivered the impugned judgment in WP(CrI) No.297/2016 allowing the 2<sup>nd</sup> habeas corpus writ petition against my will. By the impugned judgment, the Hon'ble High Court **nullified my marriage, held that my marriage can take place with the active involvement of my parents only**, ordered me to be placed in a hostel at Ernakulam from 21.12.2016 as stated above, to be given to the custody of my father and passed strictures against Smt. Sainaba and her husband. By the impugned judgment, the police were ordered to escort me from the hostel to my father's house.



23. Thus, pursuant to the impugned judgment dated 24.5.2017, I, who was remaining confined in a hostel at Ernakulam as stated above since 21.12.2016, was taken by using force, to my parental house at Vaikom in Kottayam district along with police officials. I most humbly submit that as a result of these orders of the High Court of Kerala, I have suffered immensely, particularly due to my prolonged confinement in hostel against my will, I feel that I have been deprived of my freedom and rights. I was denied the right to even contact anybody or to possess or use a phone. I have suffered also as a result of the impugned judgment where my marriage was annulled against my wishes and the wishes of my husband and I also felt as a commodity when I was asked to go in the custody of my father. I have suffered that much for the last about one year because of the orders and Judgment passed by the High Court. The hostel, where I was confined, was horrible. The hostel authorities introduced me as a terrorist to the other inmates. They also said that I have connection with ISIS and I should not speak. They restrained me from closing the door of the toilet when I entered toilet. They did not give me Qur-aan and prayer-garment, despite my request. The 156 days in the hostel was terrible. When I was taken forcefully by the police in pursuance of the impugned Judgment, I was under an impression that the police would take me to home and they would not continue to be there at home. But, after reaching home, I realized that they would stay with me and I would be under their surveillance. If police were not there with me, I would have rushed to my husband Shafin Jahan at any cost. But, I realized that the things are not under my control. There were two lady police personnel with me even in my bed room and around 8 police men also were patrolling outside my room. On the day I reached home pursuant to the impugned judgment, the sisters of my father also reached there. They were attempting to change my stand. On the same day, the Dy.S.P. at Vaikom Police Station also reached there and



brought all the eight police men. All of them encircled me. The Vaikom Dy.S.P. introduced me to them. The attitude of the Dy.S.P. towards me was as if I am a wanted criminal. The same was horrible and traumatic, and being a married major woman the close presence of these police men with me was intolerable for me, I was constrained to ask him whether he has got any order from court to treat me like a criminal. Then the Dy S.P. got annoyed and stared at me pointing his fingers towards my face and shouted at me, "Don't be over smart. OK. You are under my custody and supervision. I know how to treat you". From the attitude of the said Vaikom Dy S.P., I realized what type of protection and treatment would I get from the police. From 27.5.2016, the holy month of Ramzan commenced and it is compulsory for every physically fit major Muslim to observe fasting during the month from dawn to dusk. Being a Muslim, I also started to observe fasting. When my aunt came from mother's house, she had brought some dates also, which I used for my fasting. I was in a terrible state of affairs while living around them and was extremely saddened due to the unfavourable condition to continue to live as per my faith, i.e. to offer my prayers and to observe fasting. Ultimately, in order to escape from there, I decided to observe some strategies. Besides eating the meat, which was given to me despite the fact that it was not slaughtered in a halal manner, I halted offering prayers (Namaz) in the presence of others at home. But, I used to perform namaz in my heart, which is permissible in Islam in such harmful situations. Days passed one by one. I still remained under the impression that I would be saved legally from the confinement there shortly.

24. From the 2<sup>nd</sup> day of my reaching home pursuant to the impugned judgment, some people started to come to meet me and many were reluctant to disclose even their names. Next day onwards by 10 a.m., there were many people visiting me in the name of counseling. But, actually

they were not counseling me; instead, they were harassing me mentally and physically, compelling me to leave Islam. Later, I came to realize that these counselors had come from an institution called Sivasakhti Yoga Centre. On several days, many activists and leaders, including Mr Rahul Easwar, BJP State President Mr. Kummanam Rajashekharan, came and met my father. Several other leaders used to visit me regularly and compelled me to leave Islam and threatened me with dire consequences to life. All these people were allowed to visit my home. In the meantime, often I heard some commotion from the gate between police and people, who were from various walks of life including women activists, my friends, media persons, human rights activists, who all were restrained by the police from meeting me. Sometimes I made noise to attract them. But the police surrounding me used to drag and threaten me. The so called counselors never permitted me to open my mouth. I had to obey whatever they said. No questions from me were entertained. If I tried to say something they used to scold and harass me in many ways. I was compelled to hear the so called counselors for so many days and months against my wish and will. I was made to undergo deep mental trauma also by compelling me from morning to evening to hear what I believe to be wrong. The so called counseling was only to convince me to leave Islam. A mature 25 year old lady, who accepted her faith on her own will alone, has got right to believe as she wishes according to our Constitution. After some days, I asked the police and parents to provide some books and newspapers to me. But that request was rejected outright and I was informed that I am not only prevented from reading, but seeing even alphabet also. I was also told that the entire problem arose out of my reading alone. But as per the fundamental rights available to me under the Constitution of India I have freedom to chose and follow a religion, on my own free will and I have chosen Islam. But, the concerned authorities could

have provided justice to me. As I already stated, due to the situation, my attempt was to pretend in front of my parents, police and activists as if I am not practicing Islam now. As part of such an act, I performed Namaz during nights only, sometimes in mind. All those were attempts to please the people around me and for safety, I would pretend that whenever the counselors came, I would not object. But, I could not stick to that decision. Agreeing with the counselors without rebutting were not tolerable to me. In these circumstances, I realized that I cannot veil my belief for even a second. The counselors continued their harassment and threat. It was my mother who used to prepare food for me for breaking my fast. One day at the time of breakfast, my mother went to kitchen and tried to bring food for me. I came out from room and proceeded to the kitchen in order to take food from my mother. She did not notice my presence. When I reached the kitchen, I saw my mother was doing something unusual with the food prepared for me and the same startled me. I thereafter, informed the police about my mother's deed. But, they were reluctant to hear me or to take any steps to resolve the issue. On that day onwards, I began to prepare food for me. The inaction of the police reminded me that the police would not question whatever crimes take place against me. The number of visitors including relatives increased day by day. The relatives also were trying to remove my shawl from my head. They blamed my husband as a person who have had many marriages and as an old aged one. At the beginning they were trying to make me understand that Islam is not a good religion, but they could not succeed. Further they started abusing Shafin Jahan, my husband, and Smt. Sainaba, Jesy (Jaseena), her father and so on. Since I have had much acquaintance with those people, their attempts were futile. I had around 10 months acquaintance with Smt. Sainaba also. I have the highest regards for her. She has treated me with care and affection. They all were abused by the people



in front of me for many months. They blamed my friend Jaseena and her father also. I have been keeping friendship with Jaseena for the last five long years. Moreover, we were roommates also. Her way of life, belief and intimacy ignited a spark of light in me. And, Shafin Jahan, my husband, who is an educated person and having enough means to marry a girl from a reputed family, selected me as his wife in order to give a happy life to a girl who embraced Islam on her own free will. He is my legally wedded husband. The people visiting me, my biological parents and the police altogether were trying to compel me to dishonor my respect and belief. For the period of about 6 months prior to my production before this Hon'ble Court, I was compelled to hear all these false allegations. The counselors people realized that cursing Islam and my respectable people would not make any change in my mind. Therefore, they tried a new method – new marriage. They threatened me that after tying my legs and hands, my marriage with their affiliate would be made without my consent. I didn't care about their threat. But, when the police also were found attesting to in the same manner, I was scared. The police never allowed me to come out of my room, and the aforesaid persons were allowed to do any type of harassments against me. During the early days, I have gone through such severe assaults even from my father also. From the nature of the severe torture I was being subjected to for the only reason of me having embraced Islam and married Shafin Jahan, Petitioner herein.

25. During the period of my house-arrest pursuant to the impugned judgment, I had no connection with the outside world. Since the very 1<sup>st</sup> day of my detention, I was not given any information by the police. Mr Rahul Easwar came to meet me thrice. He compelled me to go give up Islam. Later, he got convinced about my firm and determined faith. Once when Rahul Easwar came, I told him that I would be murdered at any time, that if it so

happens, my family members would remove my head-scarf and say that I had converted back, that but my will is that I should be buried as per the faith in Islam and that these should be disclosed to the outside world. He was holding a mobile phone also. He recorded my pictures and video without my consent and for that illegal act, my father and the police were mere onlookers. The police had maintained a "Visitors Book" writing the names of those who came to visit me. If that Visitors Book is verified, those who compelled and threatened me to convert back can be identified. I was prevented from getting even a pen and paper. One day, my gold ornaments (3 bangles, 1 chain and 3 rings) including Mehr (dower given to me by my husband at the time of marriage) were taken away by my father in the presence of the police. I was made to believe that the Hon'ble High Court has directed to take away the ornaments. I knew that it is not by direction of the court. Later on, I started to offer my regular prayers (namaz) completely by standing. On yet another day, a team of Crime Branch officials including, Circle Inspector, S.P. and Dy S.P. came to me for recording statements. A lady Civil Police Officer from the Police Station at Vaikom also accompanied them. It was the lady constable who took my statements. This questioning prolonged for 4 days. It was a new experience to me. They queried about a lot of things that happened one year back. I deposed everything that I remembered and they reminded me what I had forgotten. Even if there has been slight indifferences, being a mature woman, they honored me. When I complained about the harassment from the part of parents, police and outsiders, they expressed their inability to interfere in it. During their questioning, my father came in and told them that someone is waiting to meet them. But they replied that if required, they would call him. I expressed the treatment that I experienced from the police and parents. It was after their visit that I began to get news papers occasionally. However, whenever



news about me came in the papers, the same were not given to me. It was from the Crime Branch officials that I came to know that Shafin has approached this Hon'ble Court and the case would be considered the following day. I was under such an Impression that the order of the Hon'ble High Court would be stayed shortly and I would be released from the custody of my parents. However, since no Interim order was passed by this Hon'ble Court, I was compelled to stay in custody for another 4 months. Months passed. My devastating condition continued. Again, once I realized that my parents used to mix drugs in my food, I started fasting, demanding to meet the Superintendent of Police, Kottayam district. For three days continuously, I gave up food. Not even a drop of water I took. I told the police that I have proof of mixing drugs in my food and that I would show it to the S.P. On the 3<sup>rd</sup> day, a Dy S.P. from Special Branch came to me and informed of the arrival of the S.P. within two days. But on or after the assured date, the S.P. did not come. I realized that the assurance given by the Dy S.P. is in vain. Again I started fasting. My health condition was deteriorating day by day. Continuous one month ramzan fasting and further 6 days protest fasting made me tiresome and weak. Even after the situation worsened day by day, the S.P., Kottayam did not come to take the proof that I was holding. There was no restriction at all for the counselors to come and meet me at any time. Their bags and phones were permitted to my room. There was no time limit for them to stay inside my room. It was only once that I was taken to hospital due to severe fungal infection. The counselors who visited me alleged that I would be enrolled into IS and I would have been deported to IS territories by Shafin Jahan and Smt. Sainaba by the help of Popular Front. I came to know that even the Chairperson of the Kerala State Women's Commission, which is a statutory authority established for the security, safety and well-being of women, was not allowed to meet me. Throughout my

detention, I used to ask the police whether they have got any court order to lock me behind the four walls of my parental house; I should be permitted to meet my respected persons and friends and to talk to them, continue my studies, practice my religion. I was under house-arrest for the last 6 months till I was produced before this Hon'ble Court. Again, I protested for three days further by fasting. It was for getting a phone for calling my friends. I got mobile phone on the 3<sup>rd</sup> day. In the meantime, this Hon'ble Court had directed to produce me before this Hon'ble Court. While I was waiting for 27.11.2017 to come to appear before this Hon'ble Court, the National Investigation Agency personnel came to me in the meantime. The NIA personnel had believed a story and were trying to establish that without any proof. The C.I. of the N.I.A. took my statement. The statement was not read out to me. The following are some of the questions they put forward.

1. Did I send Islamic videos to anyone before 2016 ?
2. Did I give candies to friends when I was in Salem ?

When I answered that I do not remember, I was listed by them as liar. The NIA attempted to mislead me by portraying Shafin Jahan as a terrorist. Finally, when the date to come to this Hon'ble Court was nearing, the Chairperson of the National Women's Commission also came and had a talk with me. Later I came to know that after the meeting with me, she briefed to the media and gave false comments, which I have never told her.

26. The above are the short narration of the relevant facts upto my production before this Hon'ble Court on 27.11.2017. I respectfully reiterate that I am a Muslim and I want to continue to live as a Muslim. Since 22.8.2016, except the period from 27.9.2016 to 20.12.2016, I have been under confinement without the freedom that I am entitled to. Even now I am under police surveillance. I most humbly pray that my entire liberty may kindly be restored to me. Mr Shafin Jahan (the petitioner in the above special

leave petition) is my husband, I want to continue to live as wife of my beloved husband Mr Shafin Jahan and that I embraced Islam and married him on my own free will. I further prays that this Hon`ble Court may be kind enough to appoint my husband as guardian. I most humbly pray that this Hon`ble Court may be pleased to allow us to live together as husband and wife. Therefore, I most humbly pray that this Hon`ble Court may be pleased to allow the above Special Leave Petition by setting aside the impugned judgment passed by the Hon`ble High Court.

27. I respectfully submit that it appears to me that my father is under the influence of certain sections of people who are trying to use him. Otherwise, I do not see how my father, who is an atheist, would object to me changing my religion or marrying someone from a different religion. I further submit that all those people played and still playing behind my father and all those errant personnel, both official and non-official, who subjected or caused to subject me to the horrendous torture and torments as stated above are liable to be brought to justice. In the interest of justice and for the harmonious living of the citizens of India, I most respectfully pray that this Hon`ble Court may be pleased to pass appropriate orders to take appropriate action in accordance with law against all persons mentioned above, who tortured me horrendously and mercilessly. The baseless and malicious propaganda being made by the investigating agency and by the evil forces behind my father that I am mentally not sound, that I have connection with IS and the media trial on these allegations would detrimentally affect my future and career as a Doctor, causing irreparable heavy injuries and loss to me. As per my faith, I believe that my obligation to my parents is invaluable and indeterminably huge; I don't hate them; I have not left them in the lurch nor would I ever do so. Being my parents, I shall not denounce them. I could not go home even after completion of my studies in Islam only because my



parents were insisting me to return to home by giving up my belief in Islam .I wish to live and die only as an Indian citizen, and nobody has got any authority to challenge the said right of mine. Some personnel of the NIA behaved with me with a prejudice as if I am a criminal or a terrorist. All those wanton horrendous sufferings were meted out to me not for any fault of mine, but for having exercised, on my own free will, my fundamental rights guaranteed under the Constitution of India to believe in the religion of my choice as well as to marry the person of my choice and therefore, it is most humbly prayed that this Hon'ble Court may be pleased to order that I shall be paid appropriate compensation by those concerned and the State as well for the agonies and sufferings, to which I was subjected.

*Chile*  
DEPONENT

**Verification**

Verified at Salem on this the 18<sup>th</sup> day of February, 2018 that the contents of paragraphs. 1 to 28 of my above affidavit are true and correct to my knowledge and belief, that no part of it is false and nothing material has been concealed therefrom. The Present Affidavit has been drafted by my counsel as per my instructions and contents of this Affidavit have been read by me and also have been read out to me in English and also in vernacular language of Malayalam. I have fully understood the contents of this Affidavit.



*OWN*  
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*Chile*  
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F. 3  
P. 3

At - M.E 27.2.18