
(2010) 08 KL CK 0246

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 313 of 2010 (S)

Fousiya

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0246

Hon'ble Judges : R. Basant, J;M.C. Hari Rani, J

Bench : Division Bench

Advocate : T.G. Rajendran, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

R. Basant, J.—The petitioner has come to this Court with a grievance that her husband Sri. Mahin is being illegally detained. In the petition, she had not given the details of the persons responsible for the detention. She only asserted that some persons, who came in a private Scorpio vehicle, had taken her husband away on 30.07.2010 at about 6 p.m. This petition was filed on 02.08.2010. The learned Government Pleader was directed to take instructions. It is accordingly that the matter has come up for hearing before us today.

2. Today when the case is called, the petitioner is represented by her counsel. The alleged detenu Mahin has appeared before Court.

3. The learned Government Pleader submits that it is true that the police had questioned the alleged detenu Mahin in connection with Crime No. 704 of 2010 of Muvattupuzha Police Station. But it is incorrect to say that the petitioner's husband/the alleged detenu was illegally detained or confined. He was interrogated. At the moment, nothing has been brought out to reveal his involvement in the said crime. After questioning him, he was left free also, submits the learned Government Pleader. In these circumstances, it is submitted that there is absolutely no element of illegal confinement/detention of the alleged detenu Mahin.

4. The learned Counsel for the petitioner submits that the said Mahin was illegally detained, confined and removed to the Police Station. On coming to know of the filing of this Writ Petition, the police have given up the misadventure and have now released the detenu. The petitioner and the alleged detenu have grievances about the manner in which the alleged detenu was taken away by the police and was allegedly kept under the detention in the name of investigation of the said crime.

5. Rule of law mandates that a person must be taken into custody only in accordance with the procedure established by law. There is dispute between the petitioner or the respondent as to whether the alleged detenu Mahin has been taken into custody or not. While the petitioner and the alleged detenu assert that the alleged detenu had been taken into custody illegally by the respondents, the respondents take the stand that the said Mahin was only questioned by the police in accordance with law and there was no element of detention/ confinement.

6. We do not think it necessary to embark on a detailed enquiry into the said disputed assertions. Suffice it to note that it is admitted that the alleged detenu is not under any illegal custody or detention now. In this petition for issue of a writ of habeas corpus, we are satisfied that no further directions are necessary. We however take note of the grievance of the petitioner and the alleged detenu. If the alleged detenu has been illegally detained and confined, needless to say, the right of the petitioner and the alleged detenu to seek appropriate relief in accordance with law against those responsible shall remain unfettered.

7. With the above observations, this Writ Petition is dismissed as unnecessary now in the light of the subsequent events that have admittedly taken place.