

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MRS. JUSTICE SOPHY THOMAS

Wednesday, the 23rd day of August 2023 / 1st Bhadra, 1945
WP(CRL.) NO. 1206 OF 2022(S)

PETITIONER:

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT,
MINISTRY OF EXTERNAL AFFAIRS, SOUTH BLOCK,
NEW DELHI, PIN - 110 001.
2. THE AMBASSADOR, EMBASSY OF INDIA, ABU DHABI, UAE,
PLOT NO. 10, SECTOR W-59/02,
DIPLOMATIC AREA EMBASSIES DISTRICT - UNITED ARAB EMIRATES.
3. STATE POLICE CHIEF, KERALA POLICE HEADQUARTERS,
VAZHUTHAKKAD, THIRUVANANTHAPURAM, PIN - 695010.
4. THE DISTRICT POLICE CHIEF,
OFFICE OF THE DISTRICT POLICE HEADQUARTERS,
PATHANAMTHITTA, PIN - 689645.
5. STATION HOUSE OFFICER, KOIPURAM POLICE STATION,
PATHANAMTHITTA, PIN - 689548.
6. THE CHAIRPERSON, LOCAL LEVEL COMMITTEE,
CONSTITUTED UNDER THE NATIONAL TRUST FOR WELFARE
OF PERSONS WITH AUTISM, CEREBRAL PALSY,
MENTAL RETARDATION AND MULTIPLE DISABILITIES ACT, 1999,
PATHANAMTHITTA, COLLECTORATE OFFICE,
PATHANAMTHITTA DISTRICT KERALA, PIN-689645

P.T.0

7. BEJOY THOMAS, AGED 51 YEARS, S/O P.T. THOMAS,

8. P.T. THOMAS, AGED 86 YEARS,

9. GRACY THOMAS, AGED 79 YEARS,

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 release the Detenu from illegal custody of Respondent Nos. 7 to 9 and to hand over the custody of detenu to the Petitioner.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(Crl.), this court's order dated 14/08/2023 and upon hearing the arguments of M/S. JOHNSON GOMEZ, S.BIJU (KIZHAKKANELA), SANJAY JOHNSON, JOHN GOMEZ & ARUN JOHNY, Advocates for the petitioner, SRI.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA and SRI. PRENJITH KUMAR, CENTRAL GOVERNMENT COUNSEL for R1 & R2, SRI.SAIGI JACOB PALATY, PUBLIC PROSECUTOR for R3 to R6 and of SRI.N.M.MADHU & C.S.RAJANI, Advocates for R7 to R9, SMT.SALLY THOMAS CHACKO, SRI.V.RAMKUMAR NAMBIAR and SMT.SATHYASREE PRIYA EASWARAN, AMICI CURIAE and of SRI.ANIL MALHOTRA, the court passed the following:

P.T.O.

A.MUHAMED MUSTAQUE & SOPHY THOMAS, JJ.

**W.P.(CrI.) No.1206 of 2022 &
W.P.(C) No.42320 of 2022**

Dated this the 23rd day of August, 2023

O R D E R

A.Muhamed Mustaque, J.

The question in this habeas is very peculiar. The matter arose out of a matrimonial dispute. The parties were residing in U.A.E. before the dispute broke out. In the wedlock between the petitioner

and her husband- , an autistic child was born. The child is now 21 years old. The writ petitions proceed on two contentions that the medical intervention alone would not be sufficient to protect the welfare of the child and the mother's role is also essential to protect the interest of the autistic child. As of now, the report indicates that, medically the child is being taken care of by the father. The mother came to India consequent upon the dispute with the father of the child. The jurisdiction and the scope of interference are intertwined with the welfare of the autistic child. All these matters has to be considered by this Court. This question is very

peculiar based on the facts. We are of the view that the assistance of Adv.Anil Malhotra can be sought who can appear before this Court through online.

Treat this matter as part-heard. Post on 05.09.2023.

sd/-

A.MUHAMED MUSTAQUE, JUDGE

sd/-

SOPHY THOMAS, JUDGE

In

