



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

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THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

MONDAY, THE 30TH DAY OF MARCH 2026 / 9TH CHAITHRA, 1948

WP (CRL.) NO. 482 OF 2026

PETITIONER:

BY ADV SRI.GIKKU JACOB

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY, HOME DEPARTMENT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 COMMISSIONER OF POLICE
OFFICE OF THE COMMISSIONER OF POLICE, PALAYAM,
KOZHIKODE, PIN - 673001
- 3 STATION HOUSE OFFICER
MEDICAL COLLEGE POLICE STATION, KOZHIKODE, PIN - 673303
- 4 THE DISTRICT CHILD PROTECTION UNIT (DCPU)
REPRESENTED BY DISTRICT CHILD PROTECTION OFFICER (DCPO)
IYYAPADI ROAD, MALAPARAMBA P.O, KOZHIKODE, PIN - 673009
- 5 CHILD WELFARE COMMITTEE, KOZHIKODE
REPRESENTED BY ITS CHAIRMAN, GOVERNMENT OBSERVATION
HOME, VELLIMADUKUNNU P.O., KOZHIKODE, PIN - 673012



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ADV. ANAS K A, GP.,
ADV. KIRAN JOHNY, FOR RESP 6

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR FINAL HEARING ON 30.03.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

Raja Vijayaraghavan V, J.

The petitioner submits that he is the biological father of a minor boy aged about 11 years. He is employed as a hairstylist and makeup artist. The 8th respondent is the child's mother. The marriage between the petitioner and the 8th respondent was solemnised on 30.12.2010; however, the marital relationship has since become strained, and the parties are now living separately.

2. It is the case of the petitioner that the minor child was studying at , Ernakulam, and was residing with him until the year 2021. After the summer vacation of 2021, the 8th respondent, with the petitioner's consent, took the child to Kozhikode. From that point onwards, the child has remained in the custody of the 8th respondent and was initially admitted to the II School, Kakkodi.

3. The petitioner further alleges that the 8th respondent is presently in a relationship with another individual, has remarried, and is residing with her new husband, thereby neglecting and abandoning the minor child. According to the petitioner, the child is now being cared for by the 7th respondent, who is the mother of the 8th respondent. It is contended that the 7th respondent, being a housemaid in her late sixties and also suffering from various ailments, is not in a position to adequately care for the child. The petitioner also asserts that the child is suffering



from asthma and is not being provided with proper medical care. It is further alleged that the child was not given adequate food during his stay with the 7th respondent. This fact was informed to the petitioner by the Child over a phone call. This prompted the petitioner to lodge Exts. P4 and P5 complaints before the District Child Protection Unit (DCPU) and the Child Welfare Committee, Kozhikode. Pursuant to the said complaints, the child was admitted to the _____ Hostel, _____ Kozhikode.

4. According to the petitioner, the welfare of the minor child is not being safeguarded by respondent Nos. 7 and 8, and his continued stay in the _____ Hostel, alongside orphaned children, is neither appropriate nor in his best interests. It is contended that the petitioner, being the biological father and natural guardian, is entitled to the custody of the child. Despite this, the child is presently being kept away from him, against the child's own wishes and without lawful justification.

5. In the said circumstances, the petitioner visited the _____ Hostel and filed an application seeking custody of the child. The same having been refused, the petitioner has approached this Court seeking the following reliefs:

- (ii) Issue a writ of Habeas Corpus directing the respondents 3 to 6 to produce the body of the detenu I _____ ; aged 11 years, S/o. _____ before this Hon'ble Court, who is in the illegal detention of respondents 5 and 6;
- (iii) Direct the 6th respondent to release the minor child to the custody of the petitioner, the biological father and natural guardian.



6. This Court, after careful perusal of the report submitted by the District Child Protection Unit, Kozhikode, and by order dated 27.03.2026, noted that the relationship between respondent Nos. 7 and 8 is strained. It was also recorded that the child had been rescued by the Juvenile Wing and is presently accommodated in the Hostel. Significantly, the child had informed the Child Protection Officer that he shares a good relationship with his father and expressed a clear desire to reside with him. In the said circumstances, this Court directed the 6th respondent to ensure the production of the child before this Court.

7. In compliance with the said direction, the child has been produced before us.

8. We have interacted with the child as well as the petitioner. Though notice was duly served on respondent Nos. 7 and 8, they have chosen not to appear, either in person or through counsel.

9. During our interaction, the child stated that he is suffering from asthma and that his welfare was not being properly attended to while in the care of his grandmother. He further stated that he was not provided with adequate food in the mornings and that his only substantial meal was the lunch provided at school. The child reiterated his health concerns and expressed, in clear terms, his desire to reside with his father.



10. The petitioner has also appeared before us. The report of the Child Protection Officer indicates that the petitioner consumes alcohol and suggests that it may not be in the best interest of the child to be placed in his custody.

11. Noticing the child's close emotional bond with the petitioner's sister, we also interacted with her over the phone. She informed us that she is presently residing in the Gulf and expressed her willingness to support and care for the child. She further stated that her son is a Mechanical Engineering graduate and that, after the child completes his VI and VII Standard education, arrangements would be made to take him abroad for further studies. She assured the Court that the child would be well cared for.

12. It was also brought to our notice that the petitioner's father was present. We have interacted with him as well. He also stated before us that the welfare of the child would be taken care of. After interacting with the grandfather, the petitioner and the aunt of the child, and after hearing his wishes and desires, we are of the view that the interest of the child would be protected if the Child is in the company of the father, the petitioner herein.

13. From our interaction with the parties, the following facts have come to our notice:

- (i) Since 2021, the child has been in the custody of the mother. In the intervening period, the mother has remarried and is now living separately.



From our interaction, it is evident that the mother visits the child only once in about two weeks.

- (ii) The child has categorically stated that he was not being provided adequate food while in the care of the grandmother. His mother visits him only once every two weeks or so.
- (iii) Pursuant to the complaints lodged, the child has been shifted to the . Hostel, where he is presently residing. We have also interacted with the warden, who confirmed that the child suffers from recurrent and serious bouts of asthma.
- (iv) Upon interacting with the petitioner and his sister, we are satisfied that the welfare and best interests of the child would be adequately safeguarded if custody is entrusted to the father.
- (v) The continued placement of the child in an institution meant for orphaned children cannot, in our view, be regarded as being in his best interests. Though there are allegations regarding the petitioner's consumption of alcohol, he has, during the course of interaction, stated that he is not a habitual user and has undertaken to reform himself and ensure that the child is properly cared for.

14. In view of the discussion above, we are of the view that the petitioner



is entitled to succeed. The petitioner, being the father and the natural guardian of the minor, ; will be entitled to the custody of the child. It would be open to the 8th respondent to approach the jurisdictional Family Court and seek custody, if she chooses so. In order to safeguard the welfare of the child, we deem it appropriate to direct that the District Child Protection Officer, Kozhikode, conduct periodic inspections once every three weeks to monitor the child's well-being. In the event that the child's welfare is found to be at risk, the said officer shall immediately inform the Child Welfare Committee, which shall take appropriate remedial measures. It shall also be open to the Child Welfare Committee to report the matter before this Court, and upon such a report being filed, the Registry shall post the matter for appropriate orders.

This Writ Petition (Crl.) is disposed of.

Sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE**

Sd/-
**K.V. JAYAKUMAR,
JUDGE**



APPENDIX OF WP (CRL.) NO. 482 OF 2026

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE BIRTH CERTIFICATE OF LEON CHRISTOPHER BEARING NO.80020561-1410173 DATED 6.11.2014 ISSUED BY VAZHAPPALLY GRAMA PANCHAYAT
- Exhibit P2 TRUE COPY OF THE MARRIAGE CERTIFICATE OF THE PETITIONER AND 8TH RESPONDENT BEARING NO.31/2013 DATED 9.3.2026 ISSUED BY THE MARRIAGE OFFICER, KAKKODI
- Exhibit P3 TRUE COPY OF THE SCREEN SHOT OF THE PAYMENT MADE BY PETITIONER TO 7TH RESPONDENT DATED 22.1.2026
- Exhibit P3(a) TRUE COPY OF THE SCREEN SHOT OF THE PAYMENT BY PETITIONER TO 7TH RESPONDENT DATED 14.2.2026
- Exhibit P3(b) TRUE COPY OF THE SCREEN SHOT OF THE PAYMENT MADE BY PETITIONER TO 7TH RESPONDENT DATED 17.2.2026
- Exhibit P3(c) TRUE COPY OF THE SCREEN SHOT OF THE PAYMENT TO 7TH RESPONDENT FROM LULU INTERNATIONAL EXCHANGE DATED NIL
- Exhibit P4 TRUE COPY OF THE CUSTODY APPLICATION MADE BY PETITIONER BEFORE THE 4TH RESPONDENT DATED 13.02.2026
- Exhibit P5 TRUE COPY OF THE CUSTODY APPLICATION MADE BY PETITIONER BEFORE THE 5TH RESPONDENT DATED 13.02.2026
- Exhibit P6 TRUE COPY OF THE FEES RECEIPT (RS.3000/-) FOR THE 1ST INSTALMENT OF SCHOOL FEES BEARING NO.A2136 DATED 20.02.2026 ISSUED FROM MGM PUBLIC SCHOOL KANDANAD, ERNAKULAM WITH RESPECT TO LEON CHRISTOPHER
- Exhibit P7 TRUE COPY OF THE APPLICATION DATED 11.03.2026 SUBMITTED BY PETITIONER FOR VISIT IN WHICH THE ENDORSEMENT OF 5TH RESPONDENT IS MADE GRANTING PERMISSION