



2026:KER:27190

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

MONDAY, THE 23RD DAY OF MARCH 2026/2ND CHAITHRA, 1948

W.P(CRL.) .NO.500 OF 2026

PETITIONER(S) :

- 1 JOJU GEORGE
AGED 53 YEARS
S/O.LONA GEORGE, ARAKKAL (H) , MISSION QUARTERS
THRISSUR, PIN - 680005
- 2 THOMAS K.J
AGED 54 YEARS
S/O.JOSE, KANNANAIKKAL, PURANATTUKARA, THRISSUR,
PIN - 680551
- 3 ANTO T.L
AGED 63 YEARS
S/O.LONAPPAN, THLIAPARABIL (H) , VARANDRAPPILLY,
THRISSUR, PIN - 680303

BY SRI. GEORGE POONTHOTTAM (SR.)
BY ADV.SRI.THOMAS J.ANAKKALLUNKAL
BY ADV.SRI.ARUN CHANDRAN
BY ADV.SRI.JAYARAMAN S.
BY ADV.SMT.ANUPA ANNA JOSE KANDOTH
BY ADV.SMT.DHANYA SUNNY
BY ADV.SMT.ANN MILKA GEORGE

RESPONDENT(S) :

- 1 STATE OF KERALA
REPRESENTED BY THE HOME SECRETARY, SECRETARIAT,



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THIRUVANANTHAPURAM, PIN - 695001

- 2 DIRECTOR GENERAL OF POLICE
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM, PIN - 695010
- 3 ADDITIONAL GENERAL OF POLICE (LAW AND ORDER)
OPPOSITE SAP PARADE GROUND, PEROORKADA,
THIRUVANANTHAPURAM, PIN - 695005
- 4 SUPERINTENDENT OF POLICE, THRISSUR RURAL
KATTUNGACHIRA, IRINJALAKUDA THRISSUR, PIN - 680121
- 5 DEPUTY SUPERINTENDENT OF POLICE (CHALAKUDY)
NIRMALA COLLEGE ROAD, JYOTHI NAGAR HOUSING COLONY,
CHALAKUDY, PIN - 680307
- 6 STATION HOUSE OFFICER, KORATTY
NH47, KORATTY, THRISSUR, KERALA, PIN - 680308
- 7 SR. GRACE MARIA @ MARY JOSEPH MELIT PALATHINGAL
AGED 47 YEARS
KAVEED, COCHIN, KERALA, CURRENTLY RESIDING AT
VALIYAPARAMBIL HOUSE, NEAR CHERUVALOOR POST OFFICE,
CHERUVALOOR , KORATTY, P.O., PIN - 680308
- 8 SR. ROSE MELIT PALATHINGAL
AGED 33 YEARS
D/O.MALITE CHAKKUNNY PETER, CURRENTLY RESIDING AT
VALIYAPARAMBIL HOUSE, NEAR CHERUVALOOR POST
OFFICE,CHERUVALOOR , KORATTY , P.O., PIN - 680308
- 9 SR. SEENIYA KOCHAPPAN
AGED 39 YEARS
D/O.KOCHAPPAN, CURRENTLY RESIDING AT VALIYAPARAMBIL
HOUSE, NEAR CHERUVALOOR POST OFFICE, CHERUVALOOR,
KORATTY P.O., PIN - 68030

BY SRI.K.A.ANAS, GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 23.03.2026, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



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"C.R."**J U D G M E N T****Dr. A.K. Jayasankaran Nambiar, J.**

This writ petition has been preferred by three petitioners seeking a writ of Habeas Corpus on the allegation that their daughters Teresa Joju [daughter of the 1st petitioner], aged 21 years, Elna Thomas, [daughter of the 2nd petitioner], aged 26 years and Anjali Anto [daughter of the 3rd petitioner], aged 30 years, are being illegally detained by respondents 7 to 9, who are administering a religious congregation that goes by the name of "Monastery of Holy Ruah (MHR)". It is their case that while their respective daughters had joined the said congregation at a time when the said congregation was recognised by the Archdiocese of Thrissur, subsequent activities of respondents 7 to 9 resulted in a decree of dissolution [Decree No.980/2023 dated 27.04.2023] of the Archdiocese of Thrissur formally dissolving the said congregation and holding that the said congregation including its postulants and candidates will have no rights, privileges and duties under the Archdiocese of Thrissur, and further that respondents 7 to 9 are free to join other Institutes of Consecrated Life [Monasteries/Orders/Congregations etc.] as per their choice and the laws of the Church. It is further stated that an appeal preferred by the 7th respondent before the Dicastery for the Eastern Churches in Rome was



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dismissed by the appellate authority, and the decision of the Archdiocese of Thrissur was upheld. Under the changed circumstances therefore, the petitioners believe that the continued association of their daughters with the “Monastery of Holy Ruah (MHR)” is not of their own free will but essentially under the coercion of respondents 7 to 9.

2. The petitioners placed reliance on the judgments of a Full Bench of this Court in **K.N. Sadanandan v. Raghava Kurup and others - [AIR 1975 Kerala 2 [FB]]** and a Division Bench of this Court in **Dr. Lal Parameswar v. Ullas N.N. and others - [(2014) 1 KHC 791 [DB]]** to contend that the liberties that are guaranteed to our citizens under the Constitution, cannot be stretched beyond limits nor can such freedom be made weapons to destroy our fundamental values or social establishments like families, which, undoubtedly, concede authority on parents to advise and guide their children even if they have attained the age of majority. It is contended that this court should not accept as a general principle that parents are, in all circumstances, bound to concede absolute decisional autonomy to their children, even if they have attained majority and that they remain helpless even in situations where their wards have taken wrong and immature decisions, which will be disastrous not only to the wards themselves, but also to the family concerned. As regards the instant case, it is the case of the petitioners that their daughters have not taken into consideration relevant facts and have been unduly influenced by respondents 7 to 9 to embrace the grueling rituals that are expected of members of the said congregation, which are ultimately not in the best



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interests of their daughters and the family of the petitioners.

3. We have heard the learned senior counsel Sri.George Poonthottam, assisted by Sri.Thomas J. Anakkallunkal, the learned counsel for the petitioners and also Sri.K.A.Anas, the learned Government Pleader for the respondent/State. In the nature of the order that we propose to pass, we do not deem it necessary to issue notice to respondents 7 to 9 in the writ petition.

4. The writ of Habeas Corpus is a writ that provides an extraordinary remedy which should not be permitted unless ordinary remedies have already been exhausted and proven to be ineffective. It is a discretionary remedy in the sense that the High Court has a discretion not to exercise the jurisdiction depending on the facts of the case. That said, it is trite that once the High Court finds that the detention alleged in the writ petition is illegal, the writ of Habeas Corpus would become available to the detenu as of right and cannot be withheld on the court's discretion **[Kanu Sanyal v. District Magistrate, Darjeeijng - [AIR 1973 SC 2684]] and Somprabha Rana and others v. State of Madhya Pradesh and others - [(2024) 9 SCC 382]**. The United Kingdom Supreme Court in **Rahamtullah v. Secretary of State - [(2013) 1 All ER 574]** observed that an applicant for a writ of Habeas Corpus must demonstrate that the respondent is in actual physical control over the body of the person who is the subject matter of the writ, or that there are reasonable grounds on which it may be concluded that the respondent will be able to assert that



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control. It is trite therefore that except in the cases of minors or persons otherwise incapacitated to give their consent in relation to matters affecting their life, this Court would have to look at cases where the alleged detenu is above the age of majority with due circumspection, for it cannot ignore the individual autonomy that a citizen of this country enjoys when it comes to exercise of his or her fundamental rights under the Constitution. As was observed by the Supreme Court in **Navtej Singh Johar and others v. Union of India - [AIR 2018 SC 4321]**, “autonomy is individualistic. Under the autonomy principle, the individual has sovereignty over his/her body. He/she can surrender his/her autonomy willfully to another individual and their intimacy in privacy is a matter of their choice. Such concept of identity is not only sacred but is also in recognition of the quintessential facet of humanity in a person's nature. The autonomy establishes identity and the said identity, in the ultimate eventuate, becomes a part of dignity in an individual.” While observing as above, in the context of determining the legality of one's choice in matters of sexual orientation, the Supreme Court was only following the general principle that it had already laid out in the earlier decisions in **K.S. Puttaswamy and another v. Union of India and others - [(2017) 10 SCC 1]** and **Common Cause (A Registered Society) v. Union of India and another - [(2018) 5 SCC 1]**. In **Puttaswamy [supra]**, the court observed that “the autonomy of the individual is the ability to make decisions on vital matters of concern to life. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-



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determination. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual.” In **Common Cause [supra]**, the court went on to observe that “our autonomy as persons is founded on the ability to decide on what to wear and how to dress, on what to eat and on the food that we share, on when to speak and what we speak, on the right to believe or not to believe, on whom to love and whom to partner, and to freely decide on innumerable matters of consequence and detail to our daily lives.” The strength of our Constitution was therefore found to lie in the guarantee which it affords under Article 21 thereof that each individual will have a protected entitlement in determining, *inter alia*, what to believe or what not to believe.

5. In **Shafin Jahan v. Asokan K.M. and others - [(2018) 16 SCC 368]**, the Supreme Court, while reversing a judgment of this Court, observed that the superior courts, when they exercise their jurisdiction, *parens patriae* do so in the case of persons who are incapable of asserting a free will such as minors or persons of unsound mind. The exercise of that jurisdiction should not transgress into the area of determining the suitability of partners to a marital tie, for that decision rests exclusively with the individuals themselves. It was held that neither the state nor society can intrude into that domain and the strength of our Constitution lies in its acceptance of the plurality and diversity of our culture. As upholders of constitutional freedoms, it is the duty of the court to safeguard these freedoms that are recognised in citizens, and courts are duty bound not to swerve from the path of upholding our pluralism and



diversity as a nation.

6. In our view, the choice of the alleged detenus with regard to their beliefs or the congregation that they must join is a matter that rests exclusively within the private domain of the individual concerned. Interference by the State in such matters would have a chilling effect on the exercise of constitutional freedoms by the individual concerned. It is therefore that, as the *"sentinels on the qui vive"*, this Court must tread with caution when called upon to issue writs in the nature of Habeas Corpus alleging illegal detention of the person for whose benefit the writ is sought. The court must look to the material produced before it and satisfy itself that there is some substance in the allegation that the respondent is in actual physical control over the body of the person who is the subject matter of the writ petition or that there are reasonable grounds on which it may be concluded that the respondent will be able to assert that control. For reasons that are to follow, we do not find any such material in the present writ petition.

7. The averments in the writ petition indicate that the alleged detenus are all educationally qualified and there is no reason to suspect that they were acting other than of their own free will while choosing to join the congregation of respondents 7 to 9. Interestingly, the documents produced along with the writ petition indicate that there was some discord between the Archdiocese of Thrissur on the one hand and the Monastery of Holy Ruah (MHR) on the other, pursuant to which, the former has, by a



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decree, declared the dissolution of the latter from the Archdiocese of Thrissur. The petitioners before us are apparently members of Church(es) coming under the Archdiocese of Thrissur, and it appears to us that their anxiety is with regard to their daughters having joined a congregation that, at present, is not spiritually aligned with the ideologies of the Archdiocese of Thrissur. However, that by itself cannot be a reason for us to ignore the agency inherent in the alleged detenus that informed their decision to join the Monastery of Holy Ruah (MHR). We have also not been shown any material that would suggest that the daughters of the petitioners are being detained by respondents 7 to 9, who are Nuns, who have taken their holy vows and embraced a life of spirituality. The mere disgruntlement of a parent with the decision of his adult daughter, who has chosen a life of celibacy by responding to the call of the Divine, cannot be the basis for the issuance of a writ of Habeas Corpus. Further, in the light of the judgment of the Supreme Court in **Puttaswamy [supra]** and later cases, the case law relied upon by the petitioners cannot come to their aid in maintaining this writ petition.

We also believe ourselves to be justified in coming to this conclusion in the light of a report that has been given to us by the Government Pleader, and which we have taken on record, which states that on enquiries made by the Police authorities with the alleged detenus, they have given signed statements reiterating that they are continuing in the holy order of their own free will and that there is no coercion or undue influence exerted on them by respondents 7 to 9. We therefore see no



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reason to entertain this writ petition. The writ petition fails, and is accordingly dismissed.

**Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE**

**Sd/-
JOBIN SEBASTIAN
JUDGE**

prp/



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APPENDIX OF W.P(CRL.) .NO.500 OF 2026

PETITIONERS EXHIBITS:

Exhibit P1 TRUE COPY OF THE DECREE DATED 27.04.2023
Exhibit P2 TRUE COPY OF THE LETTER OF THE DICASTERY OF
EASTERN CHURCHES DATED 10.06.2024
Exhibit P3 TRUE COPY OF THE LETTER DATED 21.07.2025 FROM
THE APOSTOLIC NUNCIO
Exhibit P4 TRUE COPY OF THE TRICHUR ARCHDIOCESAN BULLETIN
IN VOLUME 9, ISSUE 07.07.2024
Exhibit P5 TRUE COPY OF THE LETTER DATED 26.07.2024 IN
PROT NO.215/2024, LMG. 06/2024 ISSUED BY THE
FRANCISCAN CLARIST CONGREGATION (FCC)
Exhibit P6 TRUE COPY OF THE MEDICAL CERTIFICATE DATED
09.03.2026
Exhibit P7 TRUE COPY OF THE COMPLAINT SENT TO DIRECTOR
GENERAL OF POLICE, KERALA ON 15.03.2026
Exhibit P8 A TRUE COPY OF THE DISCHARGE SUMMARY OF
DETENUE NO.2 FROM THE DEPARTMENT OF PSYCHIATRY
AT JUBILEE MISSION HOSPITAL DATED 09.03.2025

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE