

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN
&
THE HONOURABLE MR. JUSTICE P.D. RAJAN

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(Crl.).No. 528 of 2014 (S)

PETITIONER:

LATHA, AGED 45 YEARS
W/O. VIJAYAN, 'KALLAYITHADATHIL HOUSE'
KANNAMVETTIKKAVU P.O.-673 637, PULIKKAL VIA, KONDOTTY
MALAPPURAM DISTRICT.

BY ADV. SRI.C.K. MOHANAN

RESPONDENTS:

1. SUB INSPECTOR OF POLICE
KONDOTTY POLICE STATION, MALAPPURAM DISTRICT
PIN-673 638.
2. THE CIRCLE INSPECTOR OF POLICE
KONDOTTY, MALAPPURAM DISTRICT, PIN-673 638.
3. THE SUPERINTENDENT OF POLICE
MALAPPURAM, PIN-676 505.
4. DIRECTOR GENERAL OF POLICE (LAW AND ORDER)
POLICE HEAD QUARTERS, TRIVANDRUM-695 001.
5. SHABEEB, AGED 24 YEARS
S/O. GAFOOR, POOKKATTUPARAMBIL HOUSE, NEAR MADRASSA
AYIKKARAPADI P.O.-673 637, PULIKKAL VIA, KONDOTTY
MALAPPURAM DISTRICT.
6. GAFOOR, AGED 55 YEARS
POOKKATTUPARAMBIL HOUSE, NEAR MADRASSA
AYIKKARAPADI P.O.-673 637, PULIKKAL VIA, KONDOTTY
MALAPPURAM DISTRICT.

R6 BY ADV. SRI.J.ABHILASH

R1 TO R4 BY DIRECTOR GENERAL OF PROSECUTION SRI.ASAF ALI

R5 BY ADV. SRI.P.K.MOHAMED JAMEEL

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T.SANKARAN & P.D.RAJAN, JJ.

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Dated this the 13th day of February, 2015

JUDGMENT

K.T.Sankaran, J.

The Writ Petition was taken up before lunch. We interacted with the parties. The petitioner was also provided opportunity to interact with her daughter Divya (the alleged detainee). Divya stated that she did not want to go with her mother and that she wanted to have a marital relationship with the fifth respondent. Since Divya and fifth respondent belong to different religions, we directed Divya to stay in Santhinikethan Hostel, Pachalam so as to enable both parties to register the marriage under the Special Marriage Act.

2. After lunch (at 2.45 P.M.), the petitioner and her daughter Divya came to the Court and stated that Divya changed her mind and agreed to go with the petitioner, instead of going to the hostel. Divya also stated that she does not want to marry the fifth respondent. The fifth respondent was available in the Court and he was given an opportunity to interact with Divya. Even thereafter,

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Divya stated that she wants to go with her mother.

3. The case of the petitioner in the Writ Petition is that Divya was staying with her and on 15.12.2014 she did not return home. On enquiry it was revealed that the fifth respondent abducted Divya in an autorickshaw. The petitioner alleged that Divya was under the illegal detention of the fifth respondent.

4. When the Writ Petition was taken up for hearing on 12.2.2015, a counsel appeared for the fifth respondent and he stated that the fifth respondent and Divya would appear before Court on 13.2.2015. Accordingly, the case was posted to 13.2.2015. The incidents narrated above took place on 13.2.2015.

5. In view of the change of attitude of Divya and in view of her specific stand that she wants to go with her mother, the only conclusion that could be arrived at is that Divya should be permitted to go with her mother. The fifth respondent has no valid relationship with Divya and therefore, under law, he cannot claim for any right to

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maintain Divya or to request that Divya should stay with him.

Accordingly, the Writ Petition (Criminal) is allowed and Divya is permitted to go with her mother. The order passed by us directing Divya to be admitted in Santhinikethan Hostel is hereby cancelled.

(K.T.SANKARAN)
Judge

(P.D.RAJAN)
Judge

ahz/