

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(Cr1.).No. 4 of 2015 (S)

PETITIONER(S) :

VIJOYKUMAR MONTHERO AGED 27 YEARS
S/O.ELIAS MONTHERO, MONTHERO HOUSE, PANNIPARA
POST HIDAYATH NAGAR, MADHUR, KASARAGOD DISTRICT

BY ADV. SRI.I.V.PRAMOD

RESPONDENT(S) :

1. DISTRICT POLICE CHIEF
VIDYANAGAR, KASARAGOD DISTRICT, PIN 671 001
2. SUB INSPECTOR OF POLICE
VIDYANAGAR POLICE STATION
KASARAGOD DISTRICT PIN 671 001
3. MADHAVA NAIK
MANJUSHA NIVAS, PANNIPARA, HIDAYATH NAGAR P.O
KASARAGOD DISTRICT, WORKING AT STATE BANK OF TRAVANCORE
THALANGADI, NEAR RAILWAY STATION, KASARGOD PIN 671 001

R3 BY ADV. SRI.C.K.MOHANAN
BY GOVERNMENT PLEADER SMT.KOCHUMOL KODUVATH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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V.K.MOHANAN & P.D.RAJAN, JJ.

W.P.(Crl.)No.4 of 2015

Dated this the 16th day of January, 2015.

J U D G M E N T

Mohanana, J.

In terms of our order dated 6.1.2015 Miss.Swetha B., the daughter of the 3rd respondent appeared before us.

2. We heard the learned counsel for the petitioner as well as the 3rd respondent. We have also interacted with both the daughter of the 3rd respondent and the petitioner.

3. During our interaction, the so called detenie submitted before us that herself and the petitioner were in love for the last 8 years and she has already selected him as her future life partner. However, she submitted that she is a final year B.Sc.(Maths) student and she wants to continue her studies. It is also her adamant stand that she is not prepared to go along with the 3rd respondent/her father, since her parents including the 3rd respondent are compelling her to marry some other person, as they are not

prepared to approve the affairs between herself and the petitioner, who belonged to different religion.

4. It is a fact that though the petitioner and the daughter of the 3rd respondent are majors, they have not married each other and as such, there is no marital relationship between them. Under the above circumstances, this Court will not be justified in allowing Miss.Swetha B. to go along with the petitioner. During our interaction with the petitioner, he submitted before us that he is a contractor doing small scale house construction work and he is having sufficient income and he had also submitted that in case the detenue is lodged in any Ladies hostel, he is ready to meet the expenses for the same. As directed by us, the learned Government Pleader, after getting instruction from the Principal, Government College, Kasaragod, submitted that the daughter of the 3rd respondent/the detenue herein, who is a student of that college, can be accommodated in the Ladies hostel of that

college. Both the petitioner as well as the said detenue submitted before us that, after her examination, they want to register their marriage under the provisions of the Special Marriage Act.

5. Having regard to the facts and circumstances referred above, we are of the view that, at present, the detenue cannot be sent along with the petitioner and till their marriage, as desired by them, a suitable alternative accommodation shall be arranged for the detenue and thus we are of the view that, Miss.Swetha B., the detenue, can be accommodated in the Ladies hostel attached to Government college, Kasaragod, so that she can pursue her studies in the same college.

6. Accordingly, to carry out the above arrangement, the following directions are issued :

i) The petitioner is directed to take Miss.Swetha B. to Kasaragod today itself in a vehicle arranged by him accompanied by the 2nd respondent.

ii) The learned Government pleader is directed to see that one or two Woman police constables are deputed along with the 2nd respondent to accompany the petitioner as well as the detenue.

iii) The Principal, Government college, Kasaragod, and the warden/matron of the Ladies hostel are directed to accommodate Miss.Swetha B., the daughter of the 3rd respondent/final year B.com student of the said college, in the said college hostel till the final Semester examination of B.Sc.(Maths) is over.

iv) The petitioner shall meet all the expenses connected with the accommodation of Miss.Swetha B. in the Ladies hostel, Government college, Kasaragod. The petitioner is free to visit the detenue in accordance with the rules and regulations of the said hostel without adversely affecting her studies.

v) The 3rd respondent and his wife alone are also permitted to visit their daughter in the said hostel, if they

are so interested.

vi) The Principal of the college and the warden/matron of the hostel are directed to see that no other person shall visit Miss.Swetha B. during her stay in the hostel.

vii) The petitioner is free to obtain the signature of the said Swetha B. in 35 days in advance of her last written examination or her final Semester examination, for filing joint application for registering their marriage under the provisions of Special Marriage Act and the matron/warden and the Principal of the college shall grant permission to the petitioner to obtain such signature.

viii) On the expiry of one month time from the date of filing of joint application for registering their marriage, the petitioner is free to take Miss.Swetha B. from the said hostel to the concerned office of the Registrar of marriage, for registering their marriage in accordance with the procedure and law.

ix) The Sub Inspector of Vidyanagar Police station is

directed to see that the petitioner is given ample protection to take the detenue Miss.Swetha B. from Ernakulam to Kasaragod.

x) On reaching Kasargod, the detenue Swetha B. is free to visit her house to take her all belongings and the 2nd respondent is directed to see that there shall not be any obstruction or hindrance from any corner against Swetha B. for visiting her house for the said purpose.

xi) The 2nd respondent is also directed to provide protection, if required, to register the marriage between the petitioner and the said Swetha B.

xii) The petitioner shall meet the vehicle expense and incidental expenses to take the detenue to Kasaragod accompanied by the Police as directed above.

xiii) After registering the marriage as directed above, the petitioner is directed to produce the marriage certificate before this Court.

xiv) Both the petitioner and the detenue are directed to appear before this Court after their marriage, in terms of the direction, which will be issued later.

A copy of this judgment shall be handed over to the Principal, Government college, Kasaragod and also to the learned Government Pleader.

Sd/-
V.K.MOHANAN, Judge

Sd/-
P.D.RAJAN, Judge

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P.A.to Judge