

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(Crl.).No. 6 of 2015 (S)

PETITIONER(S):

**SAJAN. K.S., AGED 24 YEARS,
S/O.K.SADANANDAN, RESIDING AT RBI STAFF QUARTERS,
FLAT NO. C17, NANTHANCOD, KOWDIAR P.O.,
THIRUVANANTHAPURAM.**

**BY ADVS.SMT.MAJIDA.S,
SRI.AJIKHAN.M,
SRI.B.THARIF.**

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE,
BALARAMAPURAM POLICE STATION,
THIRUVANANTHAPURAM - 695 001.**
- 2. PRADEEP ANAND. S.,
RBI STAFF QUARTERS, FLAT NO. B-14, NANTHANCOD,
KOWDIAR P.O., THIRUVANANTHAPURAM - 695 013.**
- 3. SREEKALA. C.,
W/O.PRADEEP ANAND S., RBI STAFF QUARTERS,
FLAT NO. B-14, NANTHANCOD, KOWDIAR P.O.,
THIRUVANANTHAPURAM - 695 013.**
- 4. SIDHEN,
RESIDING AT PANKAJA VILASOM, KATTACHAL KUZHI P.O.,
BALARAMAPURAM, THIRUVANANTHAPURAM - 695 013.**

**R1 BY SRI.K.A. ABDUL RASHEED, ADDL. D.G.P.
GOVT. PLEADER SMT.V.H. JASMINE,
SRI.JOBY JOSEPH.
R2 BY ADV. SRI.G.SUDHEER.**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(Crl.).No. 6 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1: TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY
MISRA VIVAHA WELFARE ASSOCIATION DATED 18/06/2014.**

**EXHIBIT P2: PHOTOGRAPH OF THE PETITIONER AND THE DETENUE TOOK
ON THE DATE OF MARRIAGE.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

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

W.P.(Crl) No. 6 of 2015

Dated this the 13th day of January, 2015

JUDGMENT

V.K.Mohanana,J.

The petitioner, who is working as Mechanical Trainee at Hindustan Latex, Peroorkada, preferred the above writ petition under Article 226 of the Constitution of India claiming that one Pratheeksha Pradeep, who is his neighbour and family friend was in love with him for the last seven years. According to him, the above relationship between himself and the said detenue developed to their marriage, in spite of the protest from the side of the family members of the detenue. According to the petitioner, he belongs to Schedule Caste community and the detenue belongs to Ezhava

community and for that reason, the parents of the detenu were against the relationship and they compelled the said detenu to leave the relationship with the petitioner. So, according to the petitioner, the petitioner and the detenu married each other on 12.6.2014 as per the Hindu religious rites and rituals by tying 'thali' and by exchanging garments, ignoring the stand of the parents of the detenu. It is also the case of the petitioner that thereafter, the said marriage was registered at Misra Vivaha Welfare Association and subsequently, they approached the Thiruvananthapuram Corporation for registering their marriage. The Corporation authorities demanded a Certificate of Marriage under the Special Marriage Act. Exts.P1 and P2 are respectively the Marriage Certificate issued by Mishra Vivaha Welfare Association and the photographs taken on the date of marriage. Now the grievance of the petitioner is that

while the petitioner and his wife were residing together as man and wife at his house, after six months, respondents 2 and 4 trespassed into the house of the petitioner and forcibly taken away his wife and also threatened the petitioner and his family members by making warnings with dire consequences. It is also the specific case of the petitioner that the wife of the petitioner was taken to the house of the 4th respondent at Balaramapuram and illegally detained there. It is under the above circumstances, he preferred the above writ petition (Crl) praying inter alia to issue a writ of Habeas Corpus directing the 1st respondent to produce the body of the detinue Pradeeksha Pradeep, aged 19 years, now detained at Pankaja Vilasom, Kattachal Kuzhi P.O., Balaramapuram, Thiruvananthapuram before this Court and release her from illegal custody of respondents 2 to 4.

2. When the above writ petition came up for

consideration and admission, we issued notice to respondents 2 to 4 and they were directed to produce the detinue before this Court. The 1st respondent is directed to see that the contesting respondents have complied with the above direction.

3. When the case is taken up today, 'Pratheeksha Pradeep' the so called detinue appeared before this Court along with the petitioner. We have interacted with the detinue and the petitioner and we have also heard the learned counsel appearing for the petitioner and respondents 2 and 4.

4. The learned counsel appearing for respondents 2 and 4 vehemently submitted that the detinue was forcibly taken by the petitioner and the detinue is produced before this Court not by the Police. So according to the learned counsel for the respondents, the allegation in the writ petition is incorrect. It is also pointed out by the

learned counsel that Ext.P1 certificate has no legal validity and as on today, there is no legal marriage between the petitioner and the detenue.

5. The learned counsel appearing for the petitioner submitted that initially the marriage between the petitioner and the detenue was solemnized by tying 'thali' and by exchanging garments. Thereafter, as per Ext.P1, the marriage was registered at Misra Vivaha Welfare Association. It is also the submission of the learned counsel for the petitioner that the petitioner as well as the detenue filed a joint application for registering their marriage under the provisions of the Special Marriage Act.

6. During our interaction with the detenue, she submitted before us that she is now at the age of 19 years and studying for the 1st year B.Com. When we put to her about the allegations, containing the writ petition, she frankly submitted before us that on knowing the marriage

between the petitioner and herself, she was forcibly taken by respondents 2 and 4 from her matrimonial home, on 29.12.2014 and thereafter illegally kept her in her mother's house at Balaramapuram where the 1st respondents is residing. She has also deposed before us that when respondents 2 and 4 made arrangements to send her out side India, she managed to escape from the house where she was locked by respondents 2 and 4 and thereafter, she joined with the petitioner and as such, she is coming and appearing before this Court along with the petitioner. She has also handed over certain documents to us and submitted that they have already filed a joint petition for registering their marriage under the provisions of the Special Marriage Act.

7. In the light of the submissions made by the detinue before us, it can be seen that, at present, the detinue is not under the illegal custody of anybody. But,

as per her version, she was illegally detained by respondents 2 and 4 and she managed to escape from there. The detinue, being 19 years old, is free to go according to her free will and desire. As the petitioner and the detinue have filed a joint application for registering their marriage, it is for them to legalise their marriage accordingly and as the detinue is a major, she is at liberty to go, according to her will and desire.

The Writ Petition (Crl) is closed accordingly.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

