

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V.K. MOHANAN
&
THE HONOURABLE MR. JUSTICE C.K. ABDUL REHIM

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(Crl.).No. 12 of 2015 (S)

PETITIONER:

REJILAL R.,
AGED 26 YEARS,
S/O. RATHNAKUMARAN, REJI BHAVAN, MELATTUMUZHI,
KARIMUTTIKKARA P.O., THIRUVANANTHAPURAM-695 606.

BY ADVS. SRI. P. HARIDAS
SMT. S. SIKKY

RESPONDENTS:

1. DISTRICT POLICE CHIEF
MALAPPURAM-676 505.
2. THE SUB INSPECTOR OF POLICE
THENHIPPALAM POLICE STATION, MALAPPURAM-673 636.
3. M.K. GOPINATH
MULLASSERI HOUSE, CHENAKKALANGHADI P.O.,
THENHIPPALAM, MALAPPURAM-673 636.
4. SUSHEELA GOPINTH,
MULLASSERI HOUSE, CHENAKKALANGHADI P.O.,
THENHIPPALAM, MALAPPURAM-673 636
5. SIVARAMAN
MULLASSERI HOUSE, CHENAKKALANGHADI P.O.,
THENHIPPALAM, MALAPPURAM-673 636

R1 & R2 BY GOVT. PLEADER SMT. V.H. JASMINE.
R3-R5 BY ADV. SRI. E. NARAYANAN

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

APPENDIX

PETITIONERS' EXHIBITS

- EXT.P1 - TRUE COPY OF THE CERTIFICATE OF MARRIAGE ISSUED BY THE
ARYA SAMAJ MANDIR DATED 3/12/2014.
- EXT.P2 - TRUE COPY OF PHOTOGRAPHS SHOWING THE MARRIAGE THROUGH
CEREMONIES.
- EXT.P3 - TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER
DATED 6/1/2015.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

V.K. MOHANAN & C.K. ABDUL REHIM, JJ.

W.P.(CrI.) No. 12 OF 2015

DATED THIS THE 12th DAY OF JANUARY, 2015.

J U D G M E N T

V.K. Mohanan, J:

The petitioner who is presently working as Project Engineer in Sharjah claimed that the daughter of the respondents 3 & 4, namely Smt. Aiswarya Gopinath is his wife. But the respondents 3 to 5 keeping her in their illegal custody as they are not prepared to accept the marital relationship between himself and the said Aiswarya Gopinath. Therefore he preferred this writ petition under Article 226 of the Constitution of India with a prayer to issue a writ of Habeas Corpus or any other appropriate writ, order or direction directing respondents to produce body of Smt. Aiswarya Gopinath before this court and set her free to lead marital life with the petitioner.

2. When the above writ petition came up for admission, while issuing notice to respondents 1 to 3, we directed the respondents 1 & 2 to produce their daughter before this court on this day.

3. Thus when the case is taken on today Smt. Aiswarya Gopinath, the daughter of the respondents 3 & 4 appeared before us along with respondents 3 to 5. The petitioner is also present.

4. We heard learned counsel for the petitioner as well as the counsel appearing for respondents 3 to 5. We have interacted with the petitioner and the alleged detainee Smt. Aiswarya Gopinath

5. During the interaction with Smt. Aiswarya Gopinath she submitted before us that she was in love with the petitioner and they have decided to marry each other and accordingly they have undergone marriage ceremony in Arya Samaj Mandir at Calicut and they became husband and wife. It is also submitted that she is not under illegal custody of anybody including respondents 3 to 5. However the learned counsel appearing for respondents 3 to 5 submitted that there is no female member in the house of the petitioner except the paternal grandmother and therefore, in the absence of the petitioner in his house it is

not proper to sent the detenue along with petitioner at present. On hearing the above submission of learned counsel appearing for the respondents in the morning, we directed the parties to sit together and to find out some solution for the submission raised by the counsel for respondents 3 to 5 and accordingly the case has been adjourned for some time. Thereafter when the matter is taken again, the petitioner submitted before this court that he is now arrived in Kerala on emergency leave and he has to go back within one week. It is also submitted by the petitioner that after getting marriage certificate from the competent authority he has to apply for the Passport and Visa for the detenue which will take some time and thereafter he can take the detenue to his workplace. If that be so, it is for the parties to find out suitable arrangement with respect to stay of the detenue

6. The version of the petitioner as well as the detenue that they are husband and wife is supported by Ext.P1 marriage certificate. When the detenue deposes that

she is not under illegal custody of anybody, we find no reason to proceed with the enquiry in this proceedings. As the detenue submitted that she is not under the illegal custody of anybody no orders are warranted. As the detenue is preferred to go along with the petitioner to his house she is at liberty to go along with petitioner. As the detenue is not under illegal custody, no further order is warranted and accordingly this writ petition is closed.

Sd/-
V.K. MOHANAN
JUDGE

Sd/-
C.K. ABDUL REHIM
JUDGE

AMG

True copy

P.A. to Judge