

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 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(Crl.).No. 28 of 2015 (S)

PETITIONER(S):

NOUSHAD AGED 45 YEARS
S/O.ABOOBACKER, VADAKKEKALATHIL VEEDU, WARD NO.16
PALLANA, PALLANA P.O., THRIKKUNNAPPUZHA
ALAPPUZHA DISTRICT.

BY ADVS.SRI.ARUN CHANDRAN
SRI.MANSOOR.B.H.

RESPONDENT(S):

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1. DIRECTOR GENERAL OF POLICE
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695001.
 2. DISTRICT POLICE CHIEF
ALAPPUZHA-688001.
 3. THE INSPECTOR OF POLICE
HARIPPAD POLICE CIRCLE, ALAPPUZHA DISTRICT-690514.
 4. THE STATION HOUSE OFFICER
THRIKKUNNAPPUZHA POLICE STATION
ALAPPUZHA DISTRICT-690515.
 5. SUNIL
S/O.GANGADHARAN @ THAMPI, KALATHIL THEKKATHIL VEEDU
WARD NO.15, PALLANA MURI, PALLANA P.O.
THRIKKUNNAPPUZHA, ALAPPUZHA DISTRICT, 690515.
 6. GANGADHARAN @ THAMPI
KALATHIL THEKKATHIL VEEDU, WARD NO.15, PALLANA MURI
PALLANA P.O., THRIKKUNNAPPUZHA
ALAPPUZHA DISTRICT-690515.
 7. ANIL KUMAR
GANGADHARAN @ THAMPI, KALATHIL THEKKATHIL VEEDU
WARD NO.15, PALLANA MURI, PALLANA P.O.
THRIKKUNNAPPUZHA, ALAPPUZHA DISTRICT-690515.
 8. VISHNU
S/O.PURUSHAN, THYVEPPIL HOUSE, WARD NO.15
PALLANA MURI, PALLANA P.O., THRIKKUNNAPPUZHA
ALAPPUZHA DISTRICT-690515.

R6 -R 8 BY ADV. SRI.P.SREEKUMAR
R6 -R 8 BY ADV. SRI.B.PRASANTH
R6 -R 8 BY ADV. SRI.SARATH T.S.
R6 -R 8 BY ADV. SMT.P.M.MAZNA MANSOOR
R1-R4 BY GOVERNMENT PLEADER ADV.SMT. KOCHUMOL KADAVATH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

acd

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

W.P.(Crl) No. 28 of 2015

Dated this the 30th day of January, 2015

JUDGMENT

V.K.Mohanana,J.

The petitioner is the father of one Miss. Shyni, aged 21 years and he preferred the above writ petition alleging that his daughter was missing from 12.1.2015 and she is now under the illegal confinement of respondents 5 to 8. Therefore, it is prayed to issue a writ of Habeas Corpus commanding the respondents to produce the daughter of petitioner Miss. Shyni, aged 21 years before this Court and set her at liberty.

2. Pursuant to our order dated 16.1.2015, respondents 5 to 8 were directed to produce Miss. Shyni before this Court. We had also directed respondents 1 to 4 to see that the above direction is complied with by respondents 5 to 8.

Thus, when the matter is taken today, the learned Government Pleader submitted that the detenue is appearing before this Court along with the 5th respondent.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for respondents 6 to 8. We have also interacted with Miss. Shyni, the detenue-alleged and the 5th respondent.

4. During our interaction with Miss. Shyni, she submitted that she volunteered to go along with the 5th respondent, since they were in love. To our specific question as to whether she is under illegal confinement of respondents 5 to 8, she submitted in an unequivocal language that she is residing along with the 5th respondent, according to her desire and decision and she is not under the illegal confinement of anybody. The detenue as well as the 5th respondent have produced a certificate of

Registration of Marriage issued under Rule 5 (7), probably, the rule framed in terms of Tamil Nadu Registration of Marriage Act, 2009. We have perused such certificate. From the above certificate, it is seen that the marriage between the 5th respondent and the daughter of the petitioner namely, Shyni, has been solemnized on 23.01.2015 at No.118, Thambu Chetty Street, Mannady, Chennai-600001 and the said marriage has been registered on 28th January 2015 at Serial No.112/2015 of the Register of Marriages maintained under the Tamil Nadu Registration of Marriages Act, 2009.

5. The learned counsel for the petitioner submitted that since the 5th respondent and the daughter of the petitioner are belonged to different religions, the said certificate has no legal validity at all. The learned counsel for respondents 6 to 8 submitted that they have

undergone marriage and the marriage was solemnized on 23.1.2015 and thereafter, the marriage is registered under the provisions of the Tamil Nadu Registration of Marriage Act, 2009. It is also the submission of the learned counsel that the 5th respondent and the detainee are ready to register the marriage under the provisions of the Special Marriage Act in Kerala. The above submission is also recorded.

6. In the light of the above facts and circumstances, it can be seen that the alleged detainee, who is the daughter of the petitioner, namely, Shyni is aged 21 years and she volunteered to go along with the 5th respondent and thereafter, they have married each other and therefore, she wants to go along with the 5th respondent. On the basis of the submission made by the learned counsel for the petitioner, when we asked the

detenue as to whether she is prepared to talk with the petitioner, her answer was negative.

That being the position, we are satisfied that the daughter of the petitioner is not under the illegal confinement of anybody and consequently we lacks jurisdiction to proceed further with this enquiry under this proceedings, especially when no orders are warranted in terms of the prayer in the writ petition.

In the result, this writ petition is closed accordingly.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

