

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. 36 of 2015 (S)

PETITIONER:

CHRISTEEN STEPHEN, AGED 24 YEARS
S/O. STEPHEN K.J, KALATHIPARAMBIL, CHIRIKKAKOM
VARAPUZHA P.O., PARUR TALUK, ERNAKULAM - 683 517.

BY ADV. SRI. ROSHAN JACOB OOMMEN

RESPONDENTS:

1. THE STATE OF KERALA
REP. BY SECRETARY, DEPARTMENT OF HOME AFFAIRS
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DIRECTOR GENERAL OF POLICE,
STATE OF KERALA, THIRUVANANTHAPURAM-695 001.
3. THE CIRCLE INSPECTOR OF POLICE, MALA - 680 320.
4. THE SUB INSPECTOR OF POLICE, MALA - 680 320.
5. MR. HARIDAS
NELLIKAYIL HOUSE, HOUSE NO. 289, WARD VIII
P.O. KUZHOOR, KOCHUKADAVU - 680 734
THRISSUR DISTRICT.

R1 TO R4 BY ADDL.DIRECTOR GENERAL OF PROSECUTION
SRI.K.I.ABDUL RASHEED

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

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APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1 PHOTOSTAT COPY OF THE COMPLAINT FOR ILLEGALLY
 DETAINING MS.HARITHA, BEFORE THE RESPONDENT NO. 3 AND 4
 DATED 18/01/2015.
- EXT.P2 PHOTOSTAT COPY OF THE COUNTER COMPLAINT TO THE SUB
 INSPECTOR AND CIRCLE INSPECTOR DATED 20/01/2015.
- EXT.P3 PHOTOSTAT COPY OF THE COMMUNICATION VIA MESSAGE
 BETWEEN THE DETENUE AND THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

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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 is filed by Christeen Stephen alleging that his fiancée Haritha is under the illegal detention of her father (fifth respondent).

2. When the Writ Petition came up for hearing on 28.1.2015, a Division Bench of this Court passed the following order:

“The petitioner alleging that, his fiancée, viz Haritha, is under the illegal confinement of respondent No.5, preferred the above writ petition under Article 226 of the Constitution of India. According to the petitioner, during the mid of 2012, he went to an Overseas Student Educational Recruitment Agency in Mala and from there the petitioner met Miss Haritha and their acquaintance developed into love affair and finally they have decided to marry each other. It is the further case of the petitioner that Miss Haritha informed her parents that she wants to marry the petitioner. However, thereafter the said Haritha is illegally detained by the 5th respondent and she is not even allowed to continue her studies. Thereafter, the

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petitioner on 17.01.2015, went to the house of the 5th respondent and told the parents of his fiancée and conveyed that he is genuinely interested to marry Miss Haritha and 5th respondent on hearing the same, got infuriated and threatened the petitioner. Accordingly, the petitioner preferred a petition before the police as evident by Ext.P1. But thereafter no effective investigation is conducted by the police and as evident by Ext.P2, he has also filed another petition before C.I of Police, Mala. Since all these efforts to free out the detainee with the assistance of police failed, he preferred the above writ petition praying inter alia to issue a writ, order or direction in the nature of habeas corpus directing respondents 3 and 4 to bring the corpus of the detainee Miss Haritha before this court and release her from the illegal confinement to express her free will to choose her life partner.

2. By order dated 21.01.2015, we directed the 5th respondent to produce the detainee before this court on this date. Thus, the detainee is produced before us. The petitioner is also present. The father of both the petitioner as well as the detainee are also present. We interacted with them.

3. During our interaction with Miss Haritha, she submitted that the allegation in the petition against her father is correct and she is kept in the house against her will and

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desire. She also submitted before us that she wants to go along with the petitioner and she is not at all interested to go along with the 5th respondent, her father to their house. The petitioner and his father during our interaction submitted that they are ready to take Haritha to their house and the petitioner wants to marry her. During our interaction with the 5th respondent, he submitted before us that though himself and his relatives advised his daughter about the consequences and the fate of her relationship with the petitioner, there was no effect. He has also submitted that he cannot approve the affairs between the petitioner and his daughter.

4. Having regard to the facts and circumstances disclosed through the interaction with the parties, we are of the view that it is not proper on our part to send Miss Haritha with the 5th respondent since she is not interested to go along with him and who wants to go along with the petitioner. As there is no legal marriage as on today between the petitioner and Miss Haritha, we are also not justified in sending her along with the petitioner. In the above circumstances, we are of the view that for the time being, it is better to accommodate Miss Haritha in any Ladies Hostel at Ernakulam till a proper and valid marriage is conducted between the petitioner and Miss Haritha. Thus we direct respondents 3 and 4 to lodge Miss Haritha in the SNV Sadanam hostel at Ernakulam.

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5. In order to work out the above arrangement, the following directions are issued.

- i). The Matron of the SNV Sadanam Hostel, though she is not a party to the above petition, is directed to accommodate the detinue in this case viz, Haritha in the hostel until further orders.
- ii) Respondents 3 & 4 are directed to provide woman Police Officer and Constables to accompany the detinue, viz Haritha, to lodge her at S.N.V Sadanam Hostel at Ernakulam. On the accommodation of Haritha, in the said hostel, the 5th respondent will meet all the expenses connected therewith.
- iii) The petitioner is free to visit Miss Haritha in the SNV Sadanam hostel.
- iv). The Matron of the SNV Sadanam Hostel, Ernakulam is directed to permit the fifth respondent to visit the detinue in the hostel.
- v) The visitorial right granted to the fifth respondent and his family members are subject to rules and regulations of the SNV Sadanam Hostel where the detinue is ordered to be accommodated.
- vi) The petitioner is free to visit the detinue in the said hostel to obtain the signature of Miss Haritha so as to make joint application for registration or their marriage under the provisions of Special Marriage Act. Petitioner is free to visit Miss Haritha within two weeks from today.

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Post the case on 13.02.2015, on which date the 5th respondent is directed to produce the detainee before this court.”

3. Haritha is staying in SNV Sadanam Hostel in terms of the order dated 28.1.2015. It is submitted by the learned counsel for the petitioner that notice under the Special Marriage Act was given on 3.2.2015. As per Rules, the marriage can be registered only after the expiry of thirty days. It is submitted by the petitioner as well as Haritha that they would like to register the marriage under the Special Marriage Act and that an opportunity may be given to them to register the marriage. The petitioner submitted that till the marriage is registered, Haritha can stay in SNV Sadanam Hostel itself and that he will meet all the expenses for the same. It is also undertaken by the petitioner and Haritha that after registering the marriage they will produce the certificate of marriage before this Court on 10.4.2015.

Accordingly, the Writ Petition (Criminal) is disposed of with the following directions:

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- (i) Haritha will continue to stay in SNV Sadanam Hostel till her marriage is registered under the Special Marriage Act as stated above.
- (ii) For the purpose of registering the marriage the hostel authorities shall permit Haritha to go from the hostel in the company of a woman Civil Police Officer.
- (iii) Petitioner shall inform the hostel authorities about the date on which the registration of the marriage is scheduled to be held, well in advance.
- (iv) If the marriage is registered the petitioner can take Haritha and it is not necessary to take her to the hostel again.
- (v) The petitioner and Haritha shall produce the marriage certificate before this Court on 10.4.2015.
- (vi) The petitioner would be free to provide any number of books for general reading for Haritha and he is permitted to entrust the books to the hostel authorities.
- (vii) A woman Civil Police Officer shall accompany Haritha to SNV Sadanam Hostel.

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Handover a copy of the judgment to the learned Government
Pleader.

(K.T.SANKARAN)
Judge

(P.D.RAJAN)
Judge

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