

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V.K. MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D. RAJAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(Crl.).No. 43 of 2015 (S)

PETITIONER(S) :

SANDEEP T.M. AGED 23 YEARS
S/O. MOHANAN T.M., THOTTUMALICHIRA, KOILMUCK
PANDANKARY P.O., EDATHUA, PANDANKARY
ALAPPUZHA, KERALA 689 573.

BY ADVS. SRI. KISHORE KUMAR M.V.
SRI. K.P. MADHU

RESPONDENT(S) :

1. THE STATE OF KERALA
REP. BY THE SECRETARY, HOME DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. THE SUPERINTENDENT OF POLICE, KANNUR - 678 001.
3. SURESH BABU, KUNHIVEETIL, PARIYARAM,
BAVODE P.O., KANNUR - 670 622.

R1-R2 BY R BY GOVERNMENT PLEADER SRI. P.S. ABDUL KAREEM
R3 BY ADV. SRI. K.P. SUDHEER
R3 BY ADV. SRI. ARUN MATHEW VADAKKAN

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: TRUE COPY OF THE FIRST PAGE OF SSLC BOOK BEARING NO.531877

P2: TRUE COPY OF THE MARRIED CERTIFICATE DATED 21/5/2014 ISSUED BY
THE KALAVAMCODU SRI.SAKTHISWARA TEMPLE

P3: TRUE COPY OF THE MARRIAGE PHOTOS

P4: TRUE COPY OF THE FRONT PAGE OF SSLC BOOK OF THE PETITIONER.

RESPONDENT(S) ' EXHIBITS

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NIL.

TRUE COPY

PA TO JUDGE.

acd

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

W.P.(Crl) No. 43 of 2015

Dated this the 9th day of February, 2015

JUDGMENT

V.K.Mohanana,J.

The petitioner has claimed that he is an Engineering student at Akshaya College of Engineering Pulidivakkom Kanchipuram, Tamil Nadu and also engaged in web designing, software development and online marketing. According to him, he has got acquaintance with one Varsha Kunhiveettil, the daughter of the 3rd respondent, who passed B.Tech Engineering from Miedit College of Engineering, Vadakara, Kozhikode and their friendship developed into an attachment among themselves, which later developed into love affair and thus they have got married each other on 21.5.2014 at Kalavamcode Puthukkatukunnei Sree Sakthiswaran temple,

Kalavamcode, Cherthala, Alappuzha District, according to Hindu rites and ceremonies. To substantiate the said fact, Ext.P2 marriage certificate and Ext.P3 photographs are produced along with this Writ Petition. According to the petitioner, the marriage was conducted with the full support of his parents and when the 3rd respondent, the father of said Varsha came to know about the marriage, a request was made to the petitioner to arrange their marriage function and thus, he has moved the detinue, the petitioner's wife, out of reach and kept under the illegal confinement against her wishes. So, according to the petitioner, his wife, Varsha is under the illegal confinement of the 3rd respondent and therefore, it is prayed to issue of Rule Nisi calling upon the respondents to appear on a day fixed to show cause why such order should not be

made at the same time to produce Varsha, the daughter of the 3rd respondent, who is improperly detained to be dealt with according to law and to pass final orders setting the person so improperly and illegally detained at liberty, if sufficient cause is not shown or causes if any shown be disallowed.

2. Pursuant to our order dated 23.1.2015, the daughter of the 3rd respondent, is produced by the 3rd respondent himself. We interacted with Miss Varsha, the alleged detainee. We have also heard the learned counsel for the petitioner and the learned counsel appearing for the 3rd respondent.

3. During our interaction with Miss. Varsha, she submitted that she had passed AMIE and her marriage with the petitioner was solemnized on 21.5.2014. She has

also deposed before us that at present, she is coming from her parental house along with the 3rd respondent. To a pointed question as to whether she is under the illegal custody of the 3rd respondent, her father, she has categorically answered that she herself opted to reside in her parental home and therefore, she is not under illegal confinement of anybody.

4. The learned counsel for the petitioner submitted that the petitioner married Miss. Varsha upon her request and the 3rd respondent is against the relationship between the petitioner and Miss Varsha as they belonged to different casts and she turned hostile towards the petitioner only because of the compulsion of the 3rd respondent.

5. We have considered the deposition made by the

detenue before us and the contentions advanced by the learned counsel for the petitioner and the submissions of the learned counsel appearing for the respondents.

6. In a proceedings under Article 226 of the Constitution of India, especially when the prayer sought for is to issue a writ of Habeas Corpus alleging that the detenue is under the illegal confinement of any person, the only question to be considered is whether the said allegation is correct or not. In order to ascertain the said fact, when the alleged detenue is available before us, we put the same to her and when she submitted before us that she is not under the illegal confinement of anybody, including her father, the 3rd respondent, we lack jurisdiction to continue the enquiry. As the detenue herself deposed before us that she volunteered to reside

along with her father, the 3rd respondent, in her parental home and she is not detained anybody, no further orders are warranted in terms of the reliefs sought for in this writ petition.

Accordingly, the above Writ Petition (Crl) is closed.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

