

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 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(Crl.).No. 56 of 2015 (S)

PETITIONER(S) :

KANNAN, AGED 34 YEARS
DEVIKARTHIKA, TC 22/902, ATTUKAL
MANACAUD P.O., THIRUVANANTHAPURAM.

BY ADVS.SRI.SUMAN CHAKRAVARTHY
SMT.K.R.RIJA

RESPONDENT(S) :

1. THE COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY-695 001.
2. THE CIRCLE INSPECTOR OF POLICE,
FORT PS, THIRUVANANTHAPURAM-695 001.
3. THE SUB INSPECTOR OF POLICE,
FORT PS, THIRUVANANTHAPURAM-695 001.
4. VIMAL KUMAR,, AGED 24 YEARS
S/O.VIJAYAKUMAR, KV NAGAR, E-31
PLARAM, KURUSIMUTTOM, THIRUMALA-695 001
5. VISHAK,, AGED 22 YEARS
S/O.VIJAYAKUMAR, KV NAGAR, E-31
PLARAM, KURUSIMUTTOM, THIRUMALA-695 001

R4&5 BY ADV. SRI.GEORGE MATHEW
R4&5 BY ADV. SRI.SUNIL KUMAR A.G
R1 TO R3 SRI. P.S.ABDUL KAREEM - GOVERNMENT PLEADER.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(Crl.).No. 56 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT P1 : TRUE COPY OF THE FIR

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. 56 of 2015

Dated this the 10th day of February, 2015

JUDGMENT

V.K.Mohanana,J.

The petitioner, who is a Priest of Sree RajaRajeswari temple and an astrologer, preferred the above writ petition under Article 226 of the Constitution of India saying that he married one Ajitha in the year 2002, which was a love marriage and due to the said marriage, the petitioner was out casted from his family and while they were living together happily, his wife, Ajitha developed a relationship with the 4th respondent, who is almost ten years younger to her. According to the petitioner, Ajitha, his wife is missing since 12.1.2015 and the relationship between said Ajitha and the 4th respondent revealed or came to his notice, after the missing

of Mrs. Ajitha, when the petitioner's son Sabarinath, informed the petitioner that the 4th respondent used to come to their house, when the petitioner was out of the house. It is the further case of the petitioner that all his attempt to trace out Ajitha resulted in vain. But, the Police has not conducted any effective investigation. It is also the case of the petitioner that brother of Ajitha gave a complaint before the Police alleging that his sister, Ajitha is abducted by respondents 4 and 5 and accordingly, Ext.P1 FIR was registered in the Fort Police Station for the offence punishable under Section 57(1)(A) of the Kerala Police Act. According to the petitioner, the life of Ajitha is in great danger and respondents 4 and 5 have detained her against her will and wish. Under the above circumstances, it is prayed to issue a writ of Habeas

Corpus or any other appropriate writ, order or direction directing the respondents to produce the body of Ajitha, aged about 33 years, w/o. Kannan, Devikarthika, TC 22/902, Attukal, Manacaud P.O., Thiruvananthapuram before this Court and further to set her at liberty.

2. By our order dated 3.2.2015, while admitting the writ petition and issuing notice to respondents 4 and 5, they were directed to produce Ajitha before this Court on this date. Respondents 1 to 3, the police persons were directed to see that respondents 4 and 5 have complied with the above direction.

3. Thus, when the case is taken today, Mrs. Ajitha, so called wife of the petitioner appeared before us. We have interacted with her. We have also heard the learned counsel appearing for the petitioner and the learned

Government Pleader.

4. During our interaction with Mrs. Ajitha, she deposed before us that the petitioner was always suspecting her and out of such suspicion, he used to manhandle her and, according to her, the conduct and approach of the petitioner was intolerable. Accordingly, she had shown us an injury on her right hand. She has also deposed before us that at about 3.30 p.m. on 12.1.2015, she was forcefully ousted from the house of the petitioner in connection with the above issue and as she has no other go, she contacted the 4th respondent, who offered to give a shelter to her, since, according to him, the whole incident occurred connected with the relationship between said Ajitha and the 4th respondent. So, according to the detinue, she went to Bangalore along with the 4th

respondent and thereafter, returned to Pathanamthitta on 24.1.2015 and a formal marriage was conducted in a Sivan Temple at Pathanamthitta and thereafter, they have issued a notice under the provisions of the Special Marriage Act to register their marriage. Thereafter, she went back to Bangalore from where she was brought to Fort Police Station on 6.2.2105 and from the said Police Station, she was produced before the Judicial First Class Magistrate Court-II, Thiruvananthapuram and after recording her statement, the learned Magistrate sent her to Mahilamandiram, Thiruvananthapuram with a direction to appear before this Court on this date. Thus, according to the so called detenue, she is not under the illegal confinement of anybody including respondents 4 and 5 and she was constrained to go along with the 4th respondent,

since the petitioner, after brutally manhandled her, ousted her from his house. But, the learned counsel for the petitioner denied the allegation of the detinue that the petitioner tortured and ousted the detinue from the house of the petitioner and also submitted that the petitioner is not responsible for the injury shown by her.

5. From the facts unearthed through the deposition of the so called detinue, who claimed to be the wife of the petitioner, it can be seen that the relationship between the petitioner and Mrs. Ajitha became strained. According to the detinue, she was ousted from the house of the petitioner on 12.1.2015 and thereafter, she joined with the 4th respondent as he offered shelter. So, it cannot be said that so called wife of the petitioner is under the illegal custody or confinement of respondents 4

and 5. That being the position, we find no jurisdiction to proceed further with the enquiry in this case, since so called detenue is not under the illegal confinement of anybody and therefore, for that reason, no orders are warranted in terms of the prayer sought for in this writ petition.

Accordingly, recording the statement of the detenue, this writ petition is closed.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

