

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

&

THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(Crl.).No. 71 of 2015 (S)

PETITIONER(S) :

KIRAN V., AGED 22 YEARS
S/O.VENUGOPALAN NAIR, ANANDA BHAVAN, ICE FACTORY LANE
CHALAY, THIRUVANANTHAPURAM.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT(S):-:

1. DISTRICT POLICE CHIEF,
ALAPUZHA DISTRICT, ALAPUZHA - 688 001.
2. SUB INSPECTOR OF POLICE,
SOUTH POLICE STATION, ALAPUZHA - 688 001.
3. COMMISSIONER OF POLICE,
SALEM, TAMIL NADU - 636 001.
4. SUB INSPECTOR OF POLICE,
ADAYAMPETTI POLICE STATION, SALEM
TAMIL NADU - 636 001.
5. BABU RAJENDRA PRASAD UNNITHAN,
'DHANYAM HOUSE', KOTTAMKARA, CHANDANATHOPPU
KOLLAM - 691 014, MOBILE NO.9895097550, 9746266518.

R1,R2 BY ADV. SRI. SHIBU JOSEPH - GOVERNMENT PLEADER

R5 BY ADV. SRI.AJEESH S.BRITE

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(Crl.).No. 71 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. A TRUE COPY OF THE REQUEST OF DHANYA BEFORE THE
SECRETARY, IRAVUKADU DEVASWOM TEMPLE.

EXHIBIT P2. A TRUE COPY OF THE RECEIPT ISSUED BY IRAVUKADU DEVASWOM
TEMPLE.

EXHIBIT P3. A TRUE COPY OF THE PHOGGRAPHS TAKEN ON THE EVE OF
MARRIAGE OF THE PETITIONER AND DHANYA.

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. 71 of 2015

Dated this the 5th day of March, 2015

JUDGMENT

V.K.Mohanana,J.

The petitioner states that he is a mural painter by profession. He completed the said course from the Institute of Mural Painting run by the Guruvayoor Devaswom Board. According to him, Dhanya Babu, the daughter of the 5th respondent, who is pursuing her course in BDS at Vinayaka Dental College at Salem, fell in love with him years back and thereafter they have decided to marry each other. Accordingly, their marriage was solemnized on 9.2.2015 at Iravukadu Devaswom Temple between 10.30 a.m. to 11 a.m. and thereafter the petitioner and the said Dhanya Babu were residing as husband and wife in the ancestral house of the

petitioner in Alappuzha. While so, on 11.2.2015 a group of persons along with two women police came from the 1st respondent Police Station and forcibly taken the petitioner and said Dhanya Babu to South Police Station, Alapuzha and thereafter, forcibly taken to Salem and the petitioner was detained in the Salem Police Station. According to the petitioner, on the basis of the complaint allegedly filed by the 5th respondent, the wife of the petitioner was produced before the jurisdictional Magistrate in Tamil Nadu and thereafter, sent her along with the 5th respondent, who is now detained her and therefore, the said detention is against the constitutional right of the wife of the petitioner. Hence, the petitioner preferred the above writ petition under Article 226 of the Constitution of India praying inter alia to issue a writ of habeas corpus or any other appropriate writ, order or

direction directing the respondents 1 to 4 to produce the body of Dhanya Babu, before this Court and set her at liberty forthwith.

2. Pursuant to order dated 23.2.2015 of this Court, the said Dhanya Babu is produced before us today. We have interacted with her and we have also heard the learned counsel appearing for the petitioner as well as the 5th respondent.

3. During our interaction with the said Dhanya Babu, she deposed before us that she has got some acquaintance with the petitioner being a co-traveller in train and thereafter she realised that she was misguided by the petitioner. According to her, on realisation of the said facts, she jointed with her father, the 5th respondent herein. She deposed before us that the Police produced her before the Judicial First Class Magistrate Court-IV,

Salem and thereafter, she was sent along with her father.

To a pointed question as to whether she is under the illegal confinement of the 5th respondent or any other person, she has answered categorically that she is not under the illegal custody of anybody including the 5th respondent, her father.

4. The learned counsel appearing for the petitioner vehemently submitted that the present change of mind of the detinue is only because of her brain wash, after she was forcibly taken into custody of the Police from the house of the petitioner in Alappuzha. In order to support the above contention, the learned counsel took us through the materials produced along with the writ petition and submitted that a valid marriage has been conducted between the petitioner and the said Dhanya Babu and therefore, Dhanya Babu is legally wedded wife of the

petitioner and their marriage was also registered.

5. The learned counsel appearing for the 5th respondent submitted that whatever proceedings undergone by the daughter of the 5th respondent is without her proper consent and against her will, since she was misled and misguided by the petitioner. Therefore, there is no legal sanctity for the marriage said to have been conducted between the petitioner and the daughter of the 5th respondent and as such, the petitioner is not entitled to get relief from this Court.

6. Having regard to the facts and circumstances involved in this case and especially when the allegation is that the Dhanya Babu is under the illegal confinement of the 5th respondent, the only question to be considered is whether the said allegation is correct or not. When the alleged detainee is personally present before us and when

she deposed before us that she is not under the illegal confinement of anybody, this Court lacks jurisdiction to proceed further. As the daughter of the 5th respondent is not under the illegal confinement of anybody, no orders are warranted in terms of the prayer in the above writ petition.

Accordingly, recording the deposition of the detinue, namely, Dhanya Babu, the daughter of the petitioner, this writ petition is closed.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

