

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 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(Crl.).No. 78 of 2015 (S)

PETITIONER(S) :

JITHIN R
AGED 22 YEARS, S/O.REGHU.R, NITHIN NIVAS
NEDUNGOLAM(PO), PARAVOOR VILLAGE, PARAVOOR
KOLLAM DISTRICT.

BY ADVS.SRI.C.R.SIVAKUMAR
SMT.P.T.RAZEENA

RESPONDENT(S) :

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1. THE SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE
KOLLAM DISTRICT, PIN 601001.
 2. THE CIRCLE INSPECTOR OF POLICE,
PARAVOOR POLICE STATION, PARAVOOR, KOLLAM DISTRICT
PIN 691301
 3. THE SUB INSPECTOR OF POLICE,
PARAVOOR POLICE STATION, KOLLAM DISTRICT, PIN 691301.
 4. G.DIVAKARA PILLAI, S/O.GOVINDAN,
CHITRALAYAM, KOONAYIL, PARAVOOR (PO)
PARAVOOR VILLAGE, KOLLAM DISTRICT, PIN 691301.
 - * 5. USHA,W/O.G.DIVAKARA PILLAI, CHITRALAYAM,
KOONAYIL, PARAVOOR(PO), PARAVOOR VILLAGE
KOLLAM DISTRICT, 691 301.
 - * (NAME OF THE 5th RESPONDENT IS CORRECTED AS 'RADHAMANI'
INSTEAD OF 'USHA' AS PER ORDER IN I.A.NO.3163/2015
DATED 6.3.2015.)

R1 -R3 BY ADV. SMT. KOCHUMOL KADAVATH - GOVERNMENT PLEADER.
R4 & R5 BY ADV. M. RAJENDRAN NAIR

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(Crl.).No. 78 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1 THE TRUE COPY OF THE ELECTION IDENTITY CARD OF THE
PETITIONER

EXHIBIT-P2 THE TRUE COPY OF THE RECEIPT ISSUED BY THE OFFICE OF THE
SUB REGISTRAR DATED 13.01.2015.

EXHIBIT-P3 THE TRUE COPY OF THE UNDATED LETTER WRITTEN BY THE
DETENUE TO THE PETITIONER

EXHIBIT-P4 THE TRUE COPY OF THE COMPLAINT DATED 16.02.2015

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. 78 of 2015

Dated this the 6th day of March, 2015

JUDGMENT

V.K.Mohanana,J.

The petitioner claims that he is in love with one Deepamol D.R., the daughter of respondents 4 and 5. According to the petitioner, when the above relationship between the petitioner and the said Deepamol came to the knowledge of respondents 4 and 5, the parents of the detenue, they strongly opposed the same and keeping the said Deepamol away from himself. However, it is the further case of the petitioner that the petitioner and the said Deepamol have continued their relationship and on 13.1.2015 they have decided to get married each other and accordingly, they approached the Sub Registrar's Office, Paravoor to

register their marriage.

2. The learned counsel appearing for the petitioner handover a copy of notice dated 13.1.2015 issued under Section 5 of the Special Marriage Act. It is the further case of the petitioner that while the proceedings to register the marriage was in progress, the parents of the detinue filed a complaint before the Vanitha Cell, Kollam and later the same was withdrawn by them, since the Police was not prepared to take any action upon the complaint, after ascertaining the mind of the detinue that she is fully like to marry the petitioner. According to the petitioner, thereafter, the petitioner was informed by the detinue over telephone that she was kept under the illegal detention by her parents and relatives and requested the petitioner to rescue her from such illegal confinement. Thus, according to the petitioner, under the above

circumstances, 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 commanding respondents 1 to 3 to produce the corpus of the petitioner's fiancée (Deepamol D.R.) before this Court and to release the said detainee.

3. Pursuant to order dated 23.2.2015 passed by this Court, the detainee is produced before us and we have interacted with the detainee, respondents 4 and 5, the parents of the detainee and the petitioner as well.

4. The detainee has deposed before us that herself and the petitioner were in love and they have decided to marry each other and accordingly notice under the provisions of the Special Marriage Act has already been issued. When we put to the detainee as to whether she is under the illegal confinement of anybody, she has stated

that she is not under the illegal confinement as alleged. However, she has categorically stated before us that her parents, respondents 4 and 5 are not prepared to approve the affairs between herself and the petitioner, since the petitioner is belonged to different cast and as such, she is not prepared to go along with her parents and she wants to go along with the petitioner.

5. When we interacted with the petitioner, he submitted that he is a Diesel Mechanic in a private workshop and he is getting ₹15,000/- per month. He has also deposed in tune with the facts stated in the writ petition. According to him, his fiancée-Deepamol is belonged to Nayar community and he is belonged to Ezhava community and therefore, her parents are not prepared to approve the affairs between the petitioner and the said Deepamol. When we interacted with the parents of the

Deepamol, they submitted that they cannot approve the affairs between their daughter and the petitioner and if their daughter goes along with the petitioner, they shall not appear before them, subsequently.

6. The learned counsel for respondents 4 and 5 submitted that in the absence of valid marriage, it is not proper to send the detinue along with the petitioner.

7. The learned counsel for the petitioner submitted that the detinue and the petitioner have already issued a notice under Section 5 of the Special Marriage Act on 13.1.2015 and thirty days' time is already over and their marriage can be registered on any date, after 13.2.2015.

8. We have carefully considered the depositions made before us by the detinue, the petitioner and also the parents of the detinue. The detinue, Deepamol is aged 21 years and she is studying in a private polytechnic for

Diploma in Civil Engineering and she is in love with the petitioner. She apprehends that in case, if she goes along with the parent, they will not permit her to continue her relationship with the petitioner and indirectly it is disclosed that the parents are against her will and freedom. If that be so, it is for the detinue, to take appropriate decision, for which she has absolute right. As rightly pointed out by the learned counsel for the respondents 4 and 5, this Court will not be justified in sending the detinue along with the petitioner for the time being . As pointed out by the learned counsel for the petitioner, as the detinue and the petitioner has already issued notice under the provisions of the Special Marriage Act and the period of said notice has already been expired on 13.2.2015, they can register their marriage on any date after 13.2.2015.

In the result and in view of the above fact and circumstances, this writ petition is disposed of setting Miss. Deepamol at liberty and she is free to go, according to her wish and will.

V.K. MOHANAN, JUDGE.

P.D. RAJAN, JUDGE.

acd

