

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 MARCH 2015/18TH PHALGUNA, 1936

WP(Cr1.).No. 90 of 2015 (S)

PETITIONER(S):

ANAS M., AGED 21 YEARS
S/O.MYDEEN KUNJU, AL-AMEEN MANZIL (ACKARAVILA HOUSE)
KUNNIKODE, KOORAMKODE, VILAKUDY VILLAGE
KOLLAM DISTRICT.

BY ADV. SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENT(S) /RESPONDENTS:-:

1. SUB INSPECTOR OF POLICE,
KUNNIKODE POLICE STATION, KUNNIKODE P.O.
KOLLAM - 691 508.
2. NADEEJA BEEVI, AGED 44 YEARS
W/O.YOONES KUNJU, 93. MUBARAK MANZIL, PULIMUKKU
KUNNIKODE P.O., VILAKKUDY, KOLLAM DISTRICT - 691 508.
3. HAJIRA BEEVI, AGED 63 YEARS
W/O.SHOUKATHALI, CHARUVILA PURAYIDAM VEETIL
VALAKODE JUNCTION, PUNALUR - 691 507.

R2 BY ADV. SRI.LIJI.J.VADAKEDOM
BY GOVERNMENT PLEADER SMT.KOCHUMOL KODUVATH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 90 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. A TRUE COPY OF THE STATEMENT OF DIKRA BEFORE THE LEARNED
MAGISTRATE-III, PUNALUR DATED 25.04.2014.

EXHIBIT P2. A TRUE COPY OF THE JUDGMENT DATED 13.05.2014 IN W.P(CR)
NO.195/2014 OF THIS HON'BLE COURT.

EXHIBIT P3. A TRUE COPY OF THE BIRTH CERTIFICATE OF THE PETITIONER
ISSUED BY THE PUNALUR MUNICIPALITY.

EXHIBIT P4. A TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER
BEFORE THE 1ST RESPONDENT DATED 12.01.2015.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

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

W.P.(Crl.)No.90 of 2015

Dated this the 9th day of March, 2015.

J U D G M E N T

Mohanana, J.

The petitioner claiming that the daughter of 2nd respondent - Smt.Nadeeja Beevi, named Dikra, is his fiancée and for the last 4 years, himself and the said Dikra are in love with each other. But on knowing the above relationship, the 2nd respondent detained her daughter in the house. It is the further case that, on 24.4.2014, she herself escaped from the house of the 2nd respondent and eloped with the petitioner and started to reside as husband and wife and the 3rd respondent, who is the mother of the 2nd respondent and grand mother of the detainee, Dikra, filed a complaint, on the basis of which, crime No.492/14 was registered under section 57(A) of the Kerala Police Act and consequently the petitioner and the said Dikra were produced before the court of Judicial First Class Magistrate-Punalur and when her statement was recorded, she submitted before the learned Magistrate that

she wants to go along with the petitioner. The statement was recorded by the learned Magistrate and the same is produced along with the present writ petition. It is the further case of the petitioner that thereafter the 2nd respondent herein, who is the mother of the detainee, approached this Court by filing W.P.(Crl.)No.195/14 and this Court disposed of the said writ petition as per Ext.P2 judgment, whereby the respondents 2 and 3 herein were directed not to insist the said Dikra for any marriage against her will and decision. It is also alleged that, thereafter, when the petitioner attempted to contact the detainee Dikra, she was taken to some undisclosed destination against her will and wish. So, the petitioner preferred Ext.P4 complaint before the 1st respondent, but no action was taken and therefore he preferred the present 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 to produce the body of Dikra, aged 18 years, daughter of the 2nd respondent before this Court and set her at liberty.

2. When the above writ petition came up for consideration, this Court by order dated 2.3.2015, while ordering notice to the respondents 2 and 3, they were directed to appear before this Court and to produce Miss.Dikra, the daughter of the 2nd respondent before this Court on this date.

3. Accordingly, Miss.Dikra, the daughter of the 2nd respondent appeared before us and we have interacted with her. We have also interacted with the 2nd respondent - the mother of the said Dikra and the petitioner.

4. During our interaction with the 2nd respondent, she submitted before us that the petitioner is creating unnecessary problems against the peaceful life of herself and her daughter and he trespassed into their house and tried to take her daughter away from the custody of the 2nd respondent. According to her, as per her enquiry, the conduct and character of the petitioner is bad and he is not a suitable bridegroom for her daughter. Whereas, the petitioner during our interaction submitted before us that,

when he tried to contact the daughter of the 2nd respondent, he was attacked by the 2nd respondent and he suffered all the same only because of his love and affairs towards the said Dikra. He also submitted before us that he is not interested in the property or money of the detainee's parents.

5. During our interaction with the detainee, she submitted before us that she is in love with the petitioner for the last 4 years and she wants to go along with him, but it is also her stand that the relationship has to be approved and recognized by her father and the 2nd respondent and their relatives. In the light of the above deposition of the said Dikra and as she wishes to talk with the petitioner, we asked the petitioner and the detainee Dikra to sit together. Thereafter, the matter was again taken, during which, the detainee Dikra submitted that she wants to go along with the petitioner and she realised that her parents, including the 2nd and 3rd respondents, will not approve their affair and she has no expectation that, her parents would change their approach, even if she goes to her parental home. So, she

submitted before us that she wants to continue the affair and love with the petitioner and wants to go along with him. The above submission is recorded. The detenue Dikra is at the age of 20 years at present and she is studying B.Sc. Bio-Technology course. Thus, it can be seen that the said detenue is a major and she is having sufficient education to take her own decision. Hence, we are of the view that, as the detenue has taken a decision of her own, this writ petition can be allowed, declaring that the said Dikra - the alleged detenue is free and at liberty to go according to her will and decision.

The writ petition is allowed accordingly.

Sd/-

V.K.MOHANAN, Judge

Sd/-

P.D.RAJAN, Judge

ami/

//True copy//

P.A.to Judge