

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR.JUSTICE K. RAMAKRISHNAN**

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(Crl.).No. 162 of 2015 (S)

PETITIONER(S):

**AMBIKA, AGED 49 YEARS,
W/O SASIKUMAR, POONTHURUTHIKUDI HOUSE,
IRINOGOLE (P.O.)-683 542, PERUMBAVOOR,
ERNAKULAM DISTRICT.**

BY ADV. SRI.C.K.MOHANAN

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
PERUMBAVOOR POLICE STATION, ERNAKULAM DISTRICT,
PIN:683 542.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
PERUMBAVOOR, ERNAKULAM DISTRICT, PIN:683 542.**
- 3. THE SUPERINTENDENT OF POLICE (RURAL),
ERNAKULAM, ALUVA, PIN:683 101.**
- 4. DIRECTOR GENERAL OF POLICE (LAW & ORDER),
POLICE HEAD QUARTERS, TRIVANDRUM-695 001.**
- 5. THOUFEEK, AGED 20 YEARS,
S/O. ASHARAF, KODALIL HOUSE, B.O.C ROAD,
PERUMBAVOOR (P.O.), ERNAKULAM DISTRICT, PIN:683 542.**
- 6. TARIK, AGED 27 YEARS,
S/O. ASHARAF, KODALIL HOUSE, B.O.C ROAD,
PERUMBAVOOR (P.O), ERNAKULAM DISTRICT, PIN:683 542.**
- 7. TAHIR, AGED 25 YEARS,
S/O. ASHARAF, KODALIL HOUSE, B.O.C ROAD,
PERUMBAVOOR (P.O), ERNAKULAM DISTRICT, PIN:683 542.**

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**8. ASHARAF, AGED 55 YEARS,
KODALIL HOUSE, B.O.C ROAD, PERUMBAVOOR (P.O),
ERNAKULAM DISTRICT, PIN:683 542.**

**R1-R4 BY SRI. ASAF ALI/ DIRECTOR GENERAL OF PROSECUTION
R5 TO R8 BY ADV. SRI.P.THOMAS GEEVERGHESE
GOVERNMENT PLEADER SMT. KOCHUMOL KODUVATH**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
06-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

SS

**C.K. ABDUL REHIM &
K. RAMAKRISHNAN, JJ.**

W.P.(Crl.) No. 162 of 2015

Dated this the 6th day of July, 2015

JUDGMENT

C.K. Abdul Rehim, J

Mother of a girl aged 18 years, Miss.Ashiga Sasikumar, is the petitioner herein. This petition is filed seeking a writ of Habeas Corpus directing for production of the corpus of Miss.Ashiga Sasikmar and set her at liberty, based on the allegation that the girl is allegedly under illegal confinement of respondents 5 to 8. It is stated that on 11.04.2015 at 4.00 a.m, the alleged detainee was found missing from her home and on enquiries made it was revealed that respondents 5 to 8 had enticed and abducted her and they are keeping her under illegal detention. Even though a case was registered by the 1st respondent with respect to missing of the petitioner's daughter, under

Section 57 of the Kerala Police Act, no effective investigation is conducted, is the complaint.

2. Pursuant to order passed by this court, the alleged detainee was produced by the 1st respondent on 21.04.2015. The alleged detainee, when interacted by this court, conceded that she is in love with the 5th respondent and they wish to marry and live together. Having regard to the fact that there existed no legally valid marriage, this court directed the detainee to go along with the petitioner and to reside with her, till the next posting date on 20.05.2015. But on 20.05.2015 when the case was taken up it was revealed that, despite permission granted by this court to the detainee to reside with the petitioner, the petitioner had put her in a hostel at Kaloor, Ernakulam. On that day also the alleged detainee repeated her determined stand to marry the 5th respondent. The 5th respondent also expressed willingness to marry the alleged detainee, who

had attained majority. For facilitating the alleged detainee to take an independent decision of her own, this court directed that she has to be admitted at Santhinikethan Hostel, Pachalam, Ernakulam, till 01.06.2015. The parents of the alleged detainee were given liberty to meet her at the hostel and to provide her appropriate counselling. Thereafter when the matter was taken up on 01.06.2015 it was reported that, despite specific liberty reserved, neither the petitioner nor any other person from the family of the alleged detainee had visited her during her stay at the hostel. The alleged detainee expressed her desire to go along with the 5th respondent in order to marry him. Under such circumstances, we decided to permit the 5th respondent to solemnize the marriage under the Special Marriage Act. The 5th respondent was directed to produce proof regarding intimation of the marriage given to the Marriage Officer. On that basis, on 09.06.2015, it was

reported that intimation regarding the marriage was given on 02.06.2015 and that the marriage can be solemnized on 03.07.2015. We issued necessary direction permitting the alleged detainee to appear before the Marriage Officer for solemnization of the marriage.

3. Today when the case is taken up, learned counsel appearing for the 5th respondent had produced a Certificate of Marriage issued by the Marriage Officer, Perumbavoor. It would indicate that marriage between the 5th respondent and the alleged detainee Miss.Ashiga Sasikumar was solemnized under the Special Marriage Act on 03.07.2015. Both the alleged detainee as well as the 5th respondent are personally present before this court. They expressed desire to live together as husband and wife at the house of the 5th respondent.

Under the above mentioned circumstances, this writ petition is disposed of by taking note of the valid

marriage established between the 5th respondent and the alleged detainee Miss.Ashiga Sasikumar. The alleged detainee is set at liberty to live together with the 5th respondent as husband and wife.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge

ss

**C.K. ABDUL REHIM &
K. RAMAKRISHNAN, JJ.**

W.P.(Crl.) No. 162 of 2015

Dated this the 1st day of June, 2015

ORDER

C.K. Abdul Rehim, J

Today the alleged detainee was produced from the Hostel. When we interacted she said that, despite the specific liberty reserved to her parents to meet her at the Hostel and to provide counselling through any professional counsellor, neither the petitioner nor any other person had come to meet her during the period of stay at the hostel. She expressed her strong desire to go along with the 5th respondent and to marry him. We have also interacted with the petitioner who is personally present. It was conceded that she had never gone to the hostel to meet the alleged detainee during the period of stay. She raised allegation to

the effect that the alleged detainee was in love with another person and they have contacted a marriage.

2. Learned counsel appearing for the 5th respondent submitted that he is ready and willing to solemnize marriage with the detainee under the Special Marriage Act. Therefore he seeks to permit the alleged detainee to go along with the 5th respondent. Since there exists no legally valid marriage, we are not inclined to let the alleged detainee to go along with the 5th respondent. We are of the opinion that the 5th respondent and the alleged detainee can be permitted to take steps to solemnize the marriage under the Special Marriage Act, and till then to keep the detainee at the Santhinikethan Hostel, Pachalam, Ernakulam itself.

3. Therefore the 1st respondent is directed to put the alleged detainee back to Santhinikethan Hostel, Pachalam, Ernakulam. The expenses for her stay will be

met by the 5th respondent. The 5th respondent will take necessary steps to give notice of intention to the Marriage Officer concerned, after obtaining identity proof of the alleged detainee from the school where she is studying. The detainee shall be permitted to go to the school for collecting her certificates, on any day with previous information to the 1st respondent. The 1st respondent shall depute a woman police officer not in uniform to accompany the detainee for the said purpose. The 5th respondent will produce proof regarding the notice of intention given to the Marriage Officer.

Post on 09.06.2015. The alleged detainee shall be produced on that day.

Sd/-

C.K. Abdul Rehim, Judge

Sd/-

K. Ramakrishnan, Judge

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/true copy/

P.A to Judge

