

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(Crl.).No. 198 of 2015 (S)

PETITIONER(S):

DONAL NETTO, AGED 48 YEARS,
S/O.JOY NETTO, RESIDING AT KOOTTUNGAL, KAYALVARAM,
PUTHUPALLY VILLAGE, KAYAMKULAM, ALAPPUZHA DISTRICT.

BY ADVS.SRI.P.G.SURESH
SRI.G.SUDHEER (THURAVOOR)
SRI.RAJAN VISHNURAJ
SRI.V.HARISH

RESPONDENT(S):

1. THE STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE SUPERINTENDENT OF POLICE,
ALAPPUZHA-688 001.
3. THE SUB INSPECTOR OF POLICE,
KAYAMKULAM POLICE STATION,
ALAPPUZHA DISTRICT-688 001.
4. RENJITH, AGE NOT KNOWN,
S/O.RAJENDRAN, RESIDING AT KANDATHIL HOUSE,
CHERAVALIMURI, KAYAMKULAM, ALAPPUZHA DISTRICT-690 502.

R1-R3 BY DIRECTOR GENERAL OF PROSECUTION
GOVERNMENT PLEADER SRI. A.MOHAMMED SAVAD.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP(Crl.).No. 198 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: A TRUE PHOTOCOPY OF THE FIR AS CRIME NO.1150/2015 OF KAYAMKULAM POLICE STATION.

EXHIBIT-P2: A TRUE PHOTOCOPY OF THE SSLC CERTIFICATE OF THE PETITIONER'S DAUGHTER.

RESPONDENT(S)' EXHIBITS

----- : **NIL**

//TRUE COPY//

PA TO JUDGE

SS

C.K. ABDUL REHIM &

K. RAMAKRISHNAN, JJ.

W.P.(Crl.) No.198 of 2015

Dated this the 9th day of July, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is approaching this court seeking a writ of Habeas Corpus for directing production of his daughter Miss.Rincy Netto and to set her at liberty, based on an allegation that she is illegally detained by the 4th respondent.

2. Averments in the writ petition are to the effect that the petitioner had fixed an alliance for his daughter and betrothal was scheduled to be conducted on 19.04.2015. It was decided that the marriage can be solemnized after she attains the age of 18 years. But on 19.04.2015 at around 9.15 a.m., the petitioner's daughter left his house under the pretext of going to a tailoring shop. But thereafter she had not returned. The petitioner

preferred a complaint before the 3rd respondent with respect to missing of his daughter, based on which a case was registered as per Ext.P1, under Section 57 of the Kerala Police Act. According to the petitioner, subsequent enquiries made by him revealed that his daughter was seen along with the 4th respondent on the day when she left the house. It is admitted that the petitioner's daughter was having relationship with the 4th respondent, with respect to which the petitioner and his other family members were not willing. This writ petition is filed based on a strong apprehension that the 4th respondent had enticed the alleged detainee and is keeping her under illegal confinement.

3. Pursuant to orders issued by this court, the alleged detainee Miss.Rincy Netto was produced before this court on 03.06.2015. When we interacted with the alleged detainee, she said that a customary marriage was solemnized with the 4th respondent on 02.06.2015 at S.N.D.P. Sakha Peravally, Kayamkulam and that she had converted to Hindu religion. She said that she is not willing to go along

with the petitioner to her parental house. Considering the fact that there is no legally valid marriage established between the alleged detainee and the 4th respondent, we directed the alleged detainee to be admitted in a hostel at Ernakulam, till a valid marriage is solemnized under the Special Marriage Act. The 4th respondent was directed to take steps for solemnizing marriage under the Special Marriage Act. Subsequently, when the case is taken up for consideration on 10.06.2015, the 4th respondent submitted that notice regarding intention of marriage under the Special Marriage Act was already given on 08.06.2015, before the Marriage Officer, Kayamkulam and that the marriage can be solemnized on any date after 07.07.2015. Therefore, this court permitted the alleged detainee to go to Kayamkulam for solemnization of marriage with the 4th respondent. Necessary arrangements was directed to be made by the 3rd respondent in that regard.

4. Today when the case is taken up, counsel appearing for the 4th respondent had produced a Certificate of Marriage issued under Section 13 of the Special

Marriage Act, 1954. It would indicate that the marriage between the alleged detenue, Miss.Rincy Netto, and the 4th respondent was solemnized on 08.07.2015 before the Marriage Officer, Kayamkulam. Both the alleged detenue as well as the 4th respondent are personally present before this court. Both of them expressed their desire to live together as husband and wife at the house of the 4th respondent.

Under the above mentioned circumstances, we dispose of the writ petition by finding that the alleged detenue is not under any illegal confinement. She is set at liberty to go along with the 4th respondent to live together as husband and wife, at any place of their choice.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge