

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(Crl.).No. 204 of 2015 (S)

PETITIONER:

BIBIN ANTONY @ BICHU AGED 30 YEARS,
S/O.ANTONY, RESIDING AT KALLUVEETIL HOUSE,
EDAKOCHI P.O., KOCHI 682 007
NOW RESIDING AT; ANJALI HOUSE, PARAVUR, PUNNAPARA P.O.
ALAPPUZHA - 688 004

BY ADVS.SRI.M.M.NIAS
SRI.AJOY VENU

RESPONDENTS:

1. SUPERINTENDENT OF POLICE, ALAPPUZHA
688 001.

2. CIRCLE INSPECTOR OF POLICE,
KUMARAPURAM POLICE STATION,
ALAPPUZHA DISTRICT - 690 548.

3. SANKARANKUTTY,
RESIDING AT VILAYILPADITTATHIL HOUSE (NANDANAM)
AREEKAVU, KUMARAPURAM, NARAKATHARA P.O.
HARIPAD, ALAPPUZHA, PIN: 688 506.

R1&2 BY KOCHUMOL KODUVATH - SR. GOVERNMENT PLEADER
WITH SRI. T.ASAF ALI-DIRECTOR GENERAL OF PROSECUTION
R3 BY ADV. SRI.B.KRISHNA MANI

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE MARRIAGE ACKNOWLEDGEMENT ISSUED BY THE
SECRETARY TO THE KALAVOMKODUM SHEKTHEESWARAM TEMPLE DATED 13/5/2015.

EXT.P2: TRUE COPY OF THE MARRIAGE PHOTO.

EXT.P3: TRUE COPY OF THE ELECTRONIC MESSAGES (2 NOS)

RESPONDENTS' EXHIBITS:

EXT.R3A COPY OF THE CERTIFICATE DATED 22.5.15 ISSUED BY THE PRINCIPAL
OF THE DENTAL COLLEGE, KOZHIKODE.

EXT.R3B COPY OF THE COMMUNICATION DATED 22.5.15 ISSUED BY THE
ASSISTANT WARDEN, LADIES HOSTEL, DENTALA COLLEGE, KOZHIKODE.

EXT.R3C COPY OF THE REPRESENTATION DATED 22.5.15 BEFORE THE PRINCIPAL
OF THE DENTAL COLLEGE, KOZHIKODE.

EXT.R3D COPY OF THE COMMUNICATION DATED 22.5.15 TO THE SUB INSPECTOR
OF POLICE, MEDICAL COLLEGE POLICE STATION, KOZHIKODE.

EXT.R3E COPY OF THE FIR DATED 22.5.15 BEFORE THE MEDICAL COLLEGE
POLICE STATION, KOZHIKODE.

/TRUE COPY/

P.S TO JUDGE

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

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W.P.(Crl).No.204 of 2015
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Dated this the 8th day of July, 2015.

JUDGMENT

Abdul Rehim, J:

The petitioner is approaching this court seeking a writ of habeas corpus for directing production of his wife, Mrs.Resmi Sanker, who is the daughter of the 3rd respondent, and to set her at liberty.

2. Averments are to the effect that, the alleged deteneu and the petitioner were in love for about 4 years and they have decided to live together as husband and wife. But when the relationship was revealed to parents of the alleged detenue they have not consented for the marriage. Under such circumstances, a ceremonial marriage was conducted between the petitioner and the alleged detenue on 2.3.2014 at Kalavomkodam, Puthukkattukunnel Shaktheeswaram Temple, Cherthala. Ext.P1 is the Certificate of Marriage issued by the said temple and Ext.P2 is the photograph evidencing such marriage. According to the petitioner, after the marriage he left abroad to Abudabi where he was working, on 26.3.2014. He

came back from Abudabi on 3.5.2015 and took steps to take the alleged detainee abroad. But the 3rd respondent detained the detainee under illegal custody and shifted her to some unknown place from 6.5.2014 onward. The petitioner got information that the 3rd respondent is compelling the alleged detainee for another marriage. Under such circumstances, it is alleged that the wife of the petitioner is detained under illegal custody against her will.

3. Based on orders issued by this Court, the alleged detainee was produced before this court on 26.5.2015. When interacted, she said that she is in love with the petitioner and they have undergone ceremony of a customary marriage. The detainee was not willing to go along with the parents. Having found that there exists no legally valid marriage, this court permitted the alleged detainee to stay at the college hostel of Government Dental College, where she is doing her internship. The petitioner was directed to take steps for solemnization of marriage under the Special Marriage Act. On the basis of the permission granted by this court, the petitioner submitted notice of intimation of marriage before the Marriage Officer, Harippad on 30.6.2015 and informed this court that the

marriage can be solemnized on 4.7.2015.

4. Today when the case is called up, learned counsel for the petitioner had produced the Certificate of Marriage. It would indicate that marriage was solemnized between the petitioner and the alleged detainee under the Special Marriage Act, on 6.7.2015, before the Marriage Officer, Haripad. The petitioner as well as the alleged detainee, Resmi Sanker are personally present before this court. They informed that they are intending to live together under matrimony at the house of the petitioner. Under the above mentioned circumstance, we are convinced that the alleged detainee is not under any illegal confinement at present. Hence she is set at liberty to live together with the petitioner as husband and wife.

5. The petitioner as well as the alleged detainee have informed this court that the 3rd respondent, his family members and henchmen are constantly making threat and intimidation to the life of both of them. It is also pointed out that some untoward incidents happened at the time when they appeared before the Marriage Officer at Haripad.

6. It is left open to the petitioner and his wife to approach the appropriate police authorities having jurisdiction in the

matter, if any threat or intimidation is caused or if there is any attempt of assault or if there is any attempt to interfere with their peaceful marital life. Needless to say that, if any such complaint is received, the police officer concerned shall take appropriate action in accordance with law.

Sd/-
C.K.ABDUL REHIM, JUDGE.

Sd/-
K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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