

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(Crl.).No. 284 of 2015 (S)

PETITIONER(S):

**RAJEESH
AGED 26, S/O.LATE MANIYAPPAN, KAROTTU VEEDU
WARD 11, KUTHIYATHODU PANCHAYAT CHERTHALA
ALAPPUZHA DISTRICT**

**BY ADVS.SRI.KRISHNA PRASAD. S
SRI.B.SIBI**

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE
KUTHIYATHODU POLICE STATION, CHERTHALA
ALAPPUZHA DISTRICT-PIN-688533.**
- 2. DISTRICT POLICE CHIEF,
ALAPPUZHA DISTRICT-688001.**
- 3. REJI,
AGED 48, W/O. RAJU, GOPALAYAM VEEDU
32/768/A KALARKODE, WARD-32, SANATHANAM.P.O.
ALAPPUZHA DISTRICT, PIN-688003.**
- 4. ANILKUMAR,
AGED 45, GOPALAYAM VEEDU, 32/768/A
KALARKODE, WARD-32, SANATHANAM.P.O.
ALAPPUZHA DISTRICT, PIN-688003.**
- 5. BINDU,
W/O.ANILKUMAR, GOAPALAYM VEEDU, 32/768/A
KALARKODE, WARD-32, SANATHANAM.P.O.
ALAPPUZHA DISTRICT, PIN-688003.**

**R1-R2 BY ADV. DIRECTOR GENERAL OF PROSECUTION SRI.T.ASAF ALI
R3-R5 BY ADV. SRI.P.S.PRADEEP**

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
24-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(Crl.).No. 284 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - A COPY OF THE PHOTOGRAPH TAKEN ON 3.1.2015**
- EXT.P2 - TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 4.1.2015**
- EXT.P3 - A TRUE COPY OF THE PETITION PREFERRED BY THE
PETITIONER BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, CHERTHALA AS CMP NO.4708/2015
DATED 24.06.2015**
- EXT.P4 - A COPY OF THE ORDER IN CMP NO.4708/2015 BY THE JUDICIAL
FIRST CLASS MAGISTRATE COURT-I, CHERTHALA DATED
25.6.2015**
- EXT.P5 - A TRUE COPY OF THE CERTIFICATE OF MARRIAGE ISSUED
FROM THE OFFICE OF THE LOCAL REGISTRAR, VAYALAR
GRAMA PANCHAYAT DATED 16.07.2015.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

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

W.P.(CrI).No.284 of 2015

Dated this the 24th day of July, 2015

JUDGMENT

C.K.Abdul Rehim, J.

The petitioner is seeking a writ of Habeas Corpus directing for production of the alleged detainee, Miss.Gopika, who is the daughter of the third respondent.

2. Averments in the writ petition are to the effect that, the petitioner and the alleged detainee were in love and a marriage between them was solemnized on 03.01.2015 at Kalavankodam Puthukkattukunnei Sree Saktheswara Temple, Kalavankodam, Cherthala. Ext.P2 is the certificate issued from the said temple, evidencing the marriage. It is stated that, after the marriage the petitioner and the alleged detainee were living together as husband and wife. While so, the 4th and the 5th respondents, who is the Uncle and his wife approached the petitioner and requested to allow the alleged detainee

to meet her parents. Accordingly the alleged detenue was taken to the parental house on 15.06.2015. But thereafter the attitude of the respondents 3 to 5 changed and the petitioner was not permitted to see the alleged detenue and to have any interaction with her. Therefore, the petitioner filed an application before the Judicial First Class Magistrate Court I, Cherthala under Section 97 of the Code of Criminal Procedure as per Ext.P3. But the said application was dismissed as per Ext.P4 order, observing that the alleged detenue cannot be considered as under illegal detention. Therefore, this writ petition is filed, based on a specific allegation that the alleged detenue is under illegal detention of respondent Nos. 3 to 5 against her free will.

3. Based on orders issued by this Court, the respondent Nos.3 to 5 entered appearance on 10.07.2015 and produced the alleged detenue before this Court. When we interacted with the alleged detenue she admitted about the marriage which was solemnized on 03.01.2015. It is said that her parents were not willing to

accept the marriage with the petitioner. She expressed her adamant stand to go along with the petitioner and to lead a matrimonial life with him, based on the marriage already solemnized. Noticing that a customary marriage under the religious rites and ceremonies have already been solemnized between the petitioner and the alleged detainee, this Court directed the petitioner to get the marriage registered with the local authority under the Kerala Registration of Marriages (common) Rules, 2008 (hereinafter called the 'Rules' for short). Since the alleged detainee said that the marriage has already been consummated and she expressed her desire to go along with the petitioner, we permitted the alleged detainee to go along with the petitioner and to stay with him.

4. Today, when the case is taken up, the petitioner had produced copy of the marriage certificate marked as Ext.P5 in I.A.No.10667/2015. Ext.P5 would indicate that the marriage solemnized between the petitioner and the alleged detainee was registered under provisions of the Rules, before the Local Registrar of

Marriages, Vayalar Grama Panchayat. The certificate would indicate that the marriage was registered on 16.07.2015, in the register of marriages maintained by the said authority.

Under the above mentioned circumstances, the writ petition is disposed of based on the findings that the alleged detainee is not under any illegal confinement. It is made clear that the alleged detainee as well as the petitioner will be at liberty to lead a marital life as husband and wife, based on the marriage already solemnized, at any place of their choice.

Sd/-
C.K.ABDUL REHIM, JUDGE

Sd/-
K.RAMAKRISHNAN, JUDGE

VS