

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(Crl.).No. 291 of 2015 (S)

PETITIONER(S) :

SHAFEEQ MUHAMMED, AGED 27 YEARS,
S/O MUHAMMED KUTTY, PARAKATTU PUTHEPURA, METHALA P.O.,
ERNAKULAM DISTRICT

BY ADVS.SRI.DEVAN RAMACHANDRAN
SRI.K.M.ANEESH
SRI.ADARSH KUMAR
SRI.BIJU VARGHESE ABRAHAM
SRI.DILEEP CHANDRAN

RESPONDENT(S) :

1. ENATHY BASHEER,
PLAYIL HOUSE, CHERUVATTOOR, ERNAMALLOOR P.O,
KOTHAMANGALAM, ERNAKULAM DISTRICT 686 691.
2. MR.SUBAIDA,
W/O. ENATHY BASHEER, PLAYIL HOUSE, CHERUVATTOOR,
ERNAMALLOOR P.O, KOTHAMANGALAM,
ERNAKULAM DISTRICT 686 691
3. SUPERINTENDENT OF POLICE(ERNAKULAM RURAL) ,
ALUVA, ERNAKULAM-683 101.
4. SUB INSPECTOR OF POLICE, KURUPPAMPADY,
POLKICE STATION, ERNAKULAM DISTRICT - 683 101.
5. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS, AKBAR BHAVAN,
CHANAKKAPURI, NEW DELHI-110 021.

ADDL.R6 EMBASSY OF INDIA AT BAHRAIN,
P.B.NO.26106,
BUILDING NO.182, ROAD 2608,
AREA 326 ADLIYA,
MANAMA, BAHRAIN.
(IMPPLEADED AS PER ORDER DATED 3.7.2015 IN I.A.NO.9339/2015
IN W.P.(CRL.) NO.291/2015)

R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R3 & 4 BY SRI.TOM JOSE PADINJAREKKARA,
ADDL.DIRECTOR GENERAL OF PROSECUTION
R1 & R2 BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.S.SREEDEV
GOVERNMENT PLEADER SRI. SHIBU JOSEPH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Cr1.) .No. 291 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

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EXT.P1: TRUE COPY OF THE CERTIFICATE OF MARRIAGE DT. 28/2/15.

EXT.P2: TRUE COPY OF THE FIR REGISTERED BY THE VAZHAKULAM POLICE DT. 21/4/15.

EXT.P3: TRUE COPY OF THE STATEMENT GIVEN BY THE DETENUE.

EXT.P4: TRUE COPY OF THE REPORT SUBMITTED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, MUVATTUPUZHA DATED 21/4/15.

EXT.P5: TRUE COPY OF THE PROCEEDINGS EVIDENCING MARRIAGE OF THE PETITIONER WITH THE DTENUE.

EXT.P6: TRUE COPY OF THE COMPLAINT FILED BY THE DETENUE BEFORE THE 3RD RESPONDENT DT. 13/5/15.

EXT.P7: TRUE COPY OF THE FIR REFGISTERED BY THE 4TH RESPONDENT DATED 26/6/15.

RESPONDENT(S) ' EXHIBITS

:

NIL

// True Copy//

P.A. to Judge

SS

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

W.P.(Crl.) No.291 of 2015

Dated this the 18th day of August, 2015

JUDGMENT

C.K. Abdul Rehim, J

The petitioner is approaching this court seeking a writ of Habeas Corpus for directing production of the corpus of his wife Shebina, aged 21 years, who is allegedly under illegal detention of respondents 1 and 2, who are parents of the alleged detainee.

2. Averments in the writ petition are to the effect that, the petitioner and the alleged detainee got acquainted when the alleged detainee was studying for Engineering Course at Viswajyothy Engineering College, Vazhakulam, during the years 2012-2015. The acquaintance developed into a close intimacy between them and they have decided to conduct their marriage under the Special Marriage Act. Accordingly a marriage was solemnized and registered under Section 13 of the said Act, on 28.02.2015,

as evidenced from Ext.P1 Marriage Certificate. Thereafter the alleged detainee left the college hostel and came to the petitioner's house on 20.04.2015. In a missing case registered based on a complaint submitted by the 1st respondent, the alleged detainee appeared before the police authorities and gave a statement that she is intending to live with the petitioner. She was produced before the Judicial First Class Magistrate Court, Muvattupuzha, and was set at free to reside along with the petitioner, as desired by her. Thereafter the alleged detainee was residing with the petitioner in his house along with the parents of the petitioner. A customary marriage under religious rites was also performed thereafter.

3. Allegation is that, on 26.06.2015, the respondents 1 and 2 along with some others trespassed into the house of the petitioner and taken custody of the alleged detainee. With respect to the incident a case was registered by the 4th respondent as evidenced from Ext.P7, based on a complaint lodged by the mother of the petitioner. It is

further alleged that, the petitioner came to know that the respondents 1 and 2 had taken the alleged detainee abroad to Kingdom of Bahrain. It is on the basis of the specific allegation that the alleged detainee is kept under wrongful confinement by respondents 1 and 2 at Bahrain, this writ petition is filed.

4. After filing of this writ petition, the petitioner impleaded the additional 6th respondent, the Embassy of India at Bahrain. This court directed respondents 5 and 6 to conduct an enquiry with respect to the allegation of illegal confinement of the alleged detainee at Bahrain. The Embassy was directed to record her independent statement through any responsible officer deputed for the said purpose. A statement of the alleged detainee recorded by the authorities of the Embassy of India at Bahrain was produced before this court on 27.07.2015. The statement indicated that the alleged detainee is not under any illegal confinement. The respondents 1 and 2 have filed I.A.No.10466/2015 in which they have expressed their

willingness to produce the alleged detainee before this court, provided necessary protection is afforded against attack, threat or intimidation apprehended from the side of the petitioner and his henchmen. The petitioner also made an appeal to this court to have a direct interaction with the alleged detainee, raising an allegation that the statement of the alleged detainee, recorded at Bahrain is not voluntary and it is made only under compulsion of respondents 1 and 2. Therefore we directed respondents 1 and 2 to produce the alleged detainee before this court.

5. On 13.08.2015, when the case came up for consideration, this court issued an order in I.A.No.10466/2015 recording the submissions made on behalf of the writ petitioner that he has no objection in granting relief sought for therein. It was submitted on behalf of the petitioner that the apprehension expressed by respondents 1 and 2 is baseless and misconceive and that there will not be any attack, threat or intimidation either from the part of the writ petitioner or anybody under him.

Under such circumstances this court allowed the interim application seeking for police protection.

6. Today when the case is taken up for consideration, respondents 1 and 2 appeared in person and produce the alleged detainee, Miss. Shebina before this court. When we interacted with the alleged detainee, she conceded about solemnization of the marriage with the petitioner. But she said that she had left the house of the petitioner on her own will and her parents have taken her from the said house only on the basis of request made by her. She refused the allegation of illegal detention by her parents in any manner. She expressed her decision not to continue the marital relationship with the petitioner. It is said that she had already taken steps to get the marriage dissolved through due process of law.

7. Under the above mentioned circumstances, we are of the considered opinion that there exists no materials for this court to arrive at any conclusion that the alleged detainee is under illegal confinement of respondents

1 and 2, as alleged. Hence this writ petition deserves no merits and the same is accordingly dismissed. The alleged detainee is set at liberty to go along with respondents 1 and 2, as desired by her.

8. It is submitted by learned counsel appearing for respondents 1 and 2 that the respondents 1 and 2 are intending to go back to Bahrain along with the alleged detainee on tomorrow itself. He makes an appeal to this court to direct continuation of the police protection, till they leave the country. Respondents 3 and 4 are directed to take necessary steps to see that no obstruction, attack, threat or intimidation is caused to the respondents 1 and 2 or to the alleged detainee during their course of stay in the country and to take steps to facilitate their departure to Kingdom of Bahrain on tomorrow.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge