

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 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(Crl.).No. 308 of 2015 (S)

PETITIONER:

**R.PARAMESWARAN NAIR,
AGED 78 YEARS, S/O.SANKARAN NAIR,
KARTHEDATH HOUSE, MUNDAYA
POST GANESH GIRI, SHORNUR-679 123.**

**BY ADVS.SRI.R.SREEHARI
SRI.SACHIN VYAS**

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE HOME SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. DIRECTOR GENERAL OF POLICE
POLICE HEAD QUARTERS, KERALA
THIRUVANANTHAPURAM.695 011.**
- 3. DISTRICT POLICE CHIEF
OFFICE OF THE DISTRICT POLICE CHIEF
PALAKKAD-678 011.**
- 4. DEPUTY SUPERINTENDENT OF POLICE
SHORNUR-679 121.**
- 5. CIRCLE INSPECTOR OF POLICE
OTTAPALAM-679 101.**
- 6. THE SUB INSPECTOR OF POLICE
SHORNUR-679 121.**
- 7. LETHA, AGED 28 YEARS
D/O.KUNHADI, PANTHALAKKAPARAMBIL, KAYILIYAD
KOLAPPULLY, SHORNUR-679 122.**

**R1-R6 BY ADV. DIRECTOR GENERAL OF PROSECUTION
R BY GOVERNMENT PLEADER**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 16-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
AMG**

APPENDIX

PETITIONER'S EXHIBITS

- P1- PHOTO COPY OF O.P.NO.52/2015 OF THE FAMILY COURT, OTTAPALAM FILED BY THE 7TH RESPONDENT.**
- P2- PHOTO COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 6TH RESPONDENT.**

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

W.P (Crl.) No. 308 OF 2015

DATED THIS THE 16th DAY OF JULY, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is approaching this court seeking a writ of Habeas Corpus for directing production of his son Sri. Sreejith, aged 36 years and to set him at liberty, based on an allegation that he is illegally detained by the 7th respondent and her henchmen. It is mentioned that the 7th respondent had filed OP 52/2015 before the Family Court, Ottapalam seeking a prohibitory injunction against the alleged detainee from contracting any marriage. Allegation before the Family Court was that, the alleged detainee had married the 7th respondent on 08-10-2012 as per religious rites at a family temple at Guruvayoor and that the petitioner and other relatives of the alleged detainee are now attempting to conduct another marriage for him, by suppressing the marital relationship existing with the 7th

respondent. It is stated in the writ petition that the alleged detenue was working abroad and he came back to native place recently. It is alleged that the 7th respondent and her henchmen had forcibly took him into custody on 12-07-2015 at 10 a.m. and taken him to some unknown place. Eventhough the petitioner submitted Ext.P2 complaint before the 6th respondent, with police refused to take any action to find out the petitioner's son and to release him from the illegal custody of the 7th respondent and her henchmen, is the allegation. Under the above mentioned circumstances, this writ petition is filed seeking direction for release of the son of the petitioner.

2. Based on notice issued from this court, the 7th respondent before this court appeared along with the alleged detenue on today. When we interacted with the the alleged detenue, Sri. Sreejith, he told that there exists no legally valid marriage solemnized with the 7th respondent. He denied the allegation that a customary marriage had taken place on 08-10-2012, as mentioned in the OP filed

before the Family Court. According to him, he was taken from his house on 12-07-2015 by the 7th respondent and her relatives to Guruvayoor temple and he was compelled to undergo a form of marriage. It is said that the marriage was not registered at the temple and he had not consented for such a marriage. According to the alleged detainee, he is now under detention in the house of the 7th respondent. He expressed his desire to go to his parental house along with the petitioner.

3. We have also interacted with the 7th respondent. She said that the alleged detainee, Sri. Sreejith and herself were working together in a petrol pump from where they got acquainted. According to her, during the year 2012 they lived together for about one month in a lodge at Guruvayoor. Thereafter the alleged detainee was staying in the house of the 7th respondent. But he left to Gulf countries without giving any information to the 7th respondent. According to the 7th respondent the relatives of the alleged detainee had fixed another marriage, after he came back

from Gulf countries. Hence complaints were complaints lodged before the police authorities. On 12-07-2015 the alleged detainee had expressed his willingness before the police authorities to live together with the 7th respondent. It is according to such an agreement that the alleged detainee came along with the 7th respondent on 12-07-2015, is the version given by the 7th respondent.

4. While considering the facts and circumstances as narrated by the alleged detainee and the 7th respondent, we are of the opinion that parties are at dispute regarding existence of a valid marriage. It is evident that a case filed by the 7th respondent is now pending before the Family Court, Ottapalam. This court cannot have any adjudication on the disputed questions relating to the factum of marriage or with respect to any of the claims arising between the parties based on the alleged marriage. It will be left open to the parties to seek appropriate remedies before the family court with respect to all such matters.

5. When we interacted with the alleged detainee, Sri. Sreejith, he said that he is now under confinement of 7th respondent and her relatives, against his free will. He expressed desire to go along with petitioner to his parental house. Therefore we are convinced that the alleged detainee is now detained by the 7th respondent against his free will. Hence we order that alleged detainee to set at liberty to go to any place of his choice. Since the alleged detainee expressed desire to go to his parental house, he is given liberty to go along with the petitioner.

6. The writ petition is disposed of based on the above directions.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

AMG

True copy

P.A. to Judge