

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WP(Cr1.).No. 327 of 2015 (S)

PETITIONER:

SUNITHA, D/O. LILLI AGED 40 YEARS
REKHA BHAVAN, MUTTACAUD, VENGANOOR VILLAGE,
NEYYATTINKARA TALUK.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:

1. CIRCLE INSPECTOR OF POLICE, VIZHINJAM CIRCLE
VIZHINJAM P.O, THIRUVANANTHAPURAM DIST. 695 001.
2. SUB INSPECTOR OF POLICE
KOVALAM POLICE STATION
THIRUVANANTHAPURAM DISTRICT. 695 001.
3. ABHIMANYU @ MANU
KALATTUKAVU THADATHARIKATHU VEEDU, NERIVUKALA
PANTHA P.O, THIRUVANANTHAPURAM 695 001.

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI. SHIBU JOSEPH WITH
ADDL.DIRECTOR GENERAL OF PROSECUTION SRI.TOM
JOSE PADINJAREKARA.

R3 BY ADV. SRI.SINU.G.NATH

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Cr1.).No. 327 of 2015 (S)

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1. COPY OF THE HIGHER SECONDARY EXAMINATION HALL TICKET OF
RADHIKA.

EXHIBIT P1(A. COPY OF THE CERTIFICATE ISSUED BY THE PRINCIPAL, HSS
SCHOOL, VENGANOOR.

EXHIBIT P2. COPY OF THE FIR AND FIS IN CRIME NO. 760/2015 OF KOVALAM
POLICE STATION.

EXHIBIT P3. COPY OF THE PETITION FILED BY THE PETITIONER DATED
14.7.15 BEFORE 1st RESPONDENT WITH COPY TO 2nd RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

// TRUE COPY //

P. A. TO JUDGE

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

W.P.(Crl.) No.327 of 2015

Dated this the 3rd day of August, 2015

JUDGMENT

C. K. Abdul Rehim J.

Petitioner is the mother of the alleged detainee, Miss.Radhika. Averments in the writ petition is that the alleged detainee is aged only 17 years and she is abducted and kept under illegal detention by 3rd respondent at some unknown places. With respect to missing of the alleged detainee, the 2nd respondent had registered Ext.P2, Crime No.760/2015 under Section 57 of the Kerala Police Act. Based on the allegation that, the alleged detainee is being illegally detained by the 3rd respondent and that the respondents 1 and 2 are not taking effective steps to release her, this petition is filed seeking the writ of Habeas Corpus for directing production of the alleged detainee and to set at her at liberty.

2. Pursuant to notice issued from this Court, the 2nd respondent produced the alleged detainee before this court on 27.07.2015. It is stated that she had surrendered before the Judicial First Class Magistrate Court, Neyyattinkara on 22.07.2015 and she appeared before the 2nd respondent on the next day as instructed by the learned Magistrate. The 2nd respondent had recorded her statement and accommodated her at 'Nirbhaya' Shelter Home, Poojappura, Thiruvananthapuram. Thereafter, she was produced before this Court on 27.07.2015.

3. The 3rd respondent appeared through counsel and produced document to show that a marriage under religious rites was solemnised at the 'Pulayar Maha Sabha', Villikulam Branch, on 21.07.2015. When the case was considered, there arose a dispute with respect to the date of birth of the alleged detainee. The Certificate issued from the school authorities showed her date of birth as 31.05.1998, whereas the 3rd respondent had produced

extract of the Birth Register maintained by the Registrar of Births and Deaths, Corporation of Thiruvananthapuram. It showed that the date of birth of the alleged detainee is 20.07.1997. The alleged detainee submitted that the extract of the Birth Register was obtained by the petitioner herein, during the year 2011, for the purpose of enabling the alleged detainee to appear for the SSLC examination, since she was under aged at that time as per the records. The AADHAR Card of the alleged detainee also indicated that the year of birth is 1997. From the documents, this court is prima facie satisfied that the date of birth of the alleged detainee is 20.07.1997; and that she had completed the age of 18 years.

4. When we interacted with the alleged detainee, she said that she had left her parental house and is living along with the 3rd respondent, based on the marriage solemnised on 21.07.2015. She expressed desire to go along with the 3rd respondent and to live with him as husband and wife.

But this Court noticed that the marriage alleged to have solemnised under the religious rites has not been registered. Therefore we directed the 3rd respondent to complete the formalities of registration of the marriage under the Kerala Registration of Marriages (Common) Rules, 2008. We were not inclined to send the alleged detainee with the 3rd respondent, till then. Therefore, the 2nd respondent was directed to readmit the alleged detainee at the 'Nirbhaya' Shelter Home, Poojappura itself. The alleged detainee as well as the 3rd respondent were given permission to take necessary steps to complete the formalities with respect to registration of the marriage.

5. Today when the case is taken up, the counsel for the 3rd respondent had produced the Certificate of Marriage issued by the Local Registrar of Marriages (Common), Balaramapuram Grama Panchayath. It would indicate that the marriage solemnised on 21.07.2015 was registered by the said authority under the Kerala Registration of

Marriages(Common) Rules 2008, on 31.07.2015. This Court takes note of the establishment of a legally valid marriage between the alleged detainee and the 3rd respondent. The 3rd respondent and the alleged detainee are personally present before this Court. It is stated that they are intending to lead a marital life at the residence of the 3rd respondent.

6. Under the above mentioned circumstances, we are convinced that the alleged detainee is not under any illegal confinement, at present. The alleged detainee and the 3rd respondent are permitted to lead life as husband and wife at any place of their choice.

This writ petition is disposed of accordingly.

Sd/-

C. K. ABDUL REHIM, JUDGE

Sd/-

K. RAMAKRISHNAN, JUDGE

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