

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 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

WP(Crl.).No. 342 of 2015 (S)

PETITIONER(S) :

A.M.ALI, AGED 61 YEARS,
S/O.MOIDUTTY, ALATHAYIL HOUSE, MANNALAMKUNNU,
PUNIYURKULAM CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S) :

1. SUPERINTENDENT OF POLICE,
THRISSUR DISTRICT, AYYANTHOLE, THRISSUR DISTRICT-680 001.
2. CIRCLE INSPECTOR OF POLICE,
CHAVAKKAD POLICE STATION, CHAVAKKAD TALUK,
THRISSUR DISTRICT- 680 504.
3. HYDER ALI.K.M,
S/O.MOIDUTTY, KARUTHAKA HOUSE, ALATHAYIL HOUSE,
MANNALAMKUNNU, PUNIYURKULAM, CHAVAKKAD TALUK,
THRISSUR DISTRICT-680 504.

R3 BY ADV. SRI.MANSOOR.B.H.

R1,R2 BY SPECIAL GOVERNMENT PLEADER SMT. SREELATHA PARAMESWARAN

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
20-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP(Cr1.).No. 342 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

:

EXT.P2- TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS

:

NIL

// True Copy//

P.A. to Judge

ss

C.K. ABDUL REHIM &

K. RAMAKRISHNAN, JJ.

W.P.(Crl.) No.342 of 2015

Dated this the 20th 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 his son, Sri.Ashiq Ali, before this court and to set him free, based on an allegation that the 3rd respondent is illegally detaining him.

2. It is avered in the writ petition that the elder son of the petitioner Sri.Ashiq Ali, who is working as a Marketing Manager in a steel company in Mumbai, has now come down to the native place and is residing with the petitioner along with other family members in the parental house. The 3rd respondent who is distantly related to the petitioner has got a daughter named Miss.Hasna, aged 21 years. The petitioner's son and Miss.Hasna were in love

and they have decided to get married. But on the presumption that the petitioner and his wife are against the said alliance, the son of the petitioner had left the house on 27.07.2015 and has not returned back thereafter. The petitioner came to know that his son had eloped along with Miss.Hasna, as facilitated by the 3rd respondent. With respect to missing of the petitioner's son, a complaint was lodged before the 2nd respondent as per Ext.P1. Making an allegation that the 2nd respondent is not taking any action on the basis of Ext.P1 and that the 3rd respondent is keeping son of the petitioner in illegal custody, this writ petition is filed.

3. The alleged detinue, Sri.Ashiq Ali appeared before this court on 05.08.2015 along with the daughter of the 3rd respondent, Miss.Hasna. When we interacted, both of them said that they were in love since the last about 12 years and have decided to marry each other. Since their

parents were not willing and agreeable for the marriage, both of them have left together from their houses on 27.07.2015 and were staying at different places both inside and outside the State. When we interacted with Miss.Hasna, she said that she is not willing to go her parental house. However, the petitioner expressed his willingness to consent for the marriage and the girl is entrusted with custody of the petitioner, on the specific undertaking that she will be produced before this court. We directed personal appearance of the 3rd respondent in order to explore possibilities of an amicable settlement. Accordingly, 3rd the respondent appeared in person on 07.08.2015. When interacted the 3rd respondent had agreed that he will authorize the 'Mahallu' authorities of Mannalamkunnu Jama-ath to solemnize the 'Nikkah' of his daughter with the alleged detainee Sri.Ashiq Ali. Therefore the parties were permitted to solemnize the marriage as per

the religious rites and to get the marriage registered under provisions of the Kerala Registration of the Marriages (Common) Rules, 2008. The case was adjourned further for production of the Marriage Certificate issued from the 'Mahallu' authorities as well as the certificate of registration under the Common Rules.

4. Today when the case is taken up, the parties have produced copies of certificate issued from Mannalamkunnu Juma-ath Committee, dated 11.08.2015 and Certificate of Marriage under the Kerala Registration of Marriages (Common) Rules, 2008, issued by the Secretary of Punnayurkulam Grama Panchayath, dated 17.08.2015. The above certificates would indicate that a customary marriage as per religious rites and ceremonies was performed between the alleged detainee, Sri.Ashiq Ali and the daughter of the 3rd respondent Miss.Hasna on 10th August 2015, under the auspicious of the Mannalamkunnu

Juma-ath Committee. It is also evident that the said marriage was registered under provisions of the Common Rules before the Marriage Registering Authority, on 17.08.2015.

5. Under the above mentioned circumstances, this court takes on record the valid marriage established between the petitioner's son Sri.Ashiq Ali and the 3rd respondent's daughter Smt.Hasna. H. This court is of the considered opinion that there exists no circumstance for issuance of any writ of Habeas Corpus on the premise that the alleged detainee is under illegal confinement. The parties to the marriage are set at liberty to reside together as husband and wife at any place of their choice.

6. Learned counsel appearing for the petitioner complained that the 3rd respondent is withholding the passport of his daughter Smt.Hasna. The alleged detainee had also raised complaint regarding misuse of e-mail and

face account of the 3rd respondent's daughter Smt.Hasna by unknown persons, allegedly at the instance of the 3rd respondent. It is made clear that the parties will be at liberty to approach the appropriate authorities with respect to any such grievances. Needless to observe that if any complaints in this regard are received, the appropriate authorities shall take necessary actions in accordance with law.

Sd/-
C.K. Abdul Rehim, Judge

Sd/-
K. Ramakrishnan, Judge

//True Copy//

P.A. to Judge