

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MRS. JUSTICE MARY JOSEPH**

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(Crl.).No. 345 of 2015 (S)

PETITIONER:

**ARSHAD.P.A
AGED 25 YEARS, S/O.ABOOBACKER,
PALLIYALIL HOUSE, KOOMANTHODU P.O
IRITTY TALUK, KANNUR DISTRICT. 670 704.**

BY ADV. SRI.CIBI THOMAS

RESPONDENTS:

- 1. PRAKASH
'PRASADAM', EDAKKAD P.O, THOTTADA
KANNUR DISTRICT. 670 001.**
- 2. SUB INSPECTOR OF POLICE
EDAKKAD POLICE STATION, KANNUR 670 001.**
- 3. DISTRICT POLICE CHIEF
KANNUR 67.**
- 4. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT
THIRUVANANTHAPURAM 695 001.**

**R2 TO R4 BY ADV. SRI. TOM JOSE PADINJAREKKARA, ADGP &
SRI.SHIBU JOSEPH, SR. GOVT. PLEADER
R1 BY ADV. SRI.P.U.SHAILAJAN**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 22-09-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1. - COPY OF THE PHOTOGRAPH.

RESPONDENTS' EXHIBITS

EXT- R1 (a) - TRUE COPY OF THE PRESCRIPTION ISSUED BY
DR. RAVEENDRANATH DATED 08-08-2015.

NIL

True copy

P.A. To Judge

AMG

**C.K. ABDUL REHIM, J.
&
MARY JOSEPH, J.**

W.P (Crl.) No. 345 OF 2015

DATED THIS THE 22nd DAY OF AUGUST, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is approaching this court raising allegations that the daughter of the 1st respondent Miss.Drishya Prakash, with whom the petitioner is in love for last more than one year, is being illegally detained by the 1st respondent against her free will. It is stated that when the 1st respondent came to know about love affair he compelled the alleged detainee and the petitioner to withdraw from the relationship. Since the alleged detainee refused to obey his advise, she was brutally manhandled by the 1st respondent. Therefore she left the house of the 1st respondent on 28-07-2015 to join the petitioner and they took a decision to get married under the Special Marriage Act. But when they have taken steps to get the requisite notice published, the 1st respondent with a group of persons followed them and forcefully took away the alleged detainee

from the company of the petitioner. Since then the alleged detainee was illegally detained without allowing her to contact with the petitioner. On 31-08-2015 the alleged detainee contacted the petitioner over telephone and requested him to rescue her from the custody of the 1st respondent. Under the above mentioned circumstances, alleging illegal confinement of the alleged detainee against her free will, this petition is filed seeking a writ of Habeas Corpus for directing production of the corpus of the detainee and to set her at liberty.

2. Initially when the case came up for consideration we directed the 2nd respondent to conduct a discrete enquiry with regard to the alleged detention and to get an independent statement of the alleged detainee recorded through a woman police officer. But, after perusal of the statement of the alleged detainee produced before this court, we felt that a direct interaction with the alleged detainee is necessary in order to ascertain her attitude with respect to the illegal detention. Hence we issued notice to the 1st respondent and directed production of the alleged detainee before this court.

3. On 17-08-2015, the alleged detainee was produced before this court by the 1st respondent. When we interacted, she expressed her firm determination to marry the petitioner and to lead a life with him. She was not interested to go back to the parental house along with the 1st respondent. Since there existed no legally valid marriage, we directed the 2nd respondent to admit the alleged detainee in a hostel at Ernakulam, and the petitioner was permitted to proceed further with steps for giving the notice of intention of marriage under the Special Marriage Act. Accordingly the notice of intention of marriage was submitted before the Sub Registrar Office, Uliyil on 18-08-2015. The case was adjourned thereafter for production of the Marriage Certificate, after solemnization of the marriage on completing the statutory period of 30 days. The alleged detainee was permitted to be taken to the Marriage Officer on 18-09-2015.

4. Today, when the case is taken up it is submitted that the alleged detainee could not taken to the Sub Registrar's Office on 18-09-2015. But it is mentioned that

she was taken to the Marriage officer on the next day, i.e. on 19-09-2015 and the marriage between the petitioner and the alleged detainee was solemnized on the said date before the Marriage officer, Uliyil. Learned counsel appearing for the petitioner had produced the 'Certificate of Marriage' issued by the Marriage Officer, Uliyil on 19-09-2015 evidencing that a valid marriage has been solemnized between the petitioner and the alleged detainee.

5. This court takes on record the valid marriage established between the petitioner and the alleged detainee. Both of them are personally present before this court. They said that they are intending to live together as husband and wife at the house of the petitioner.

6. Under the above mentioned circumstances this writ petition is disposed of by recording the marriage established between the petitioner and the alleged detainee and by setting the alleged detainee at liberty to go along with the petitioner to lead a marital life at any place of their choice.

7. It is informed that the arrears of hostel fee due to Santhinikethan Hostel, Ernakulam will be paid by the petitioner today itself. We record the above undertaking.

Sd/-
C.K. ABDUL REHIM, JUDGE.

Sd/-
MARY JOSEPH, JUDGE.

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True copy

P.A. to Judge