

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

WP(Crl.).No. 352 of 2015 (S)

PETITIONER:

**TOMY THOMAS,
AGED 48 YEARS, S/O. LATE THOMAS,
KALAPPURACKAL HOUSE
VENGATHANAM P.O., PAZHUTHADOM, PALAPPARA
KANJIAPALLY, PIN - 686512.**

BY ADV. SRI.K.R.SUNIL

RESPONDENTS:

- 1. THE CIRECLE INSPECTOR OF POLICE,
KANJIAPALLY POLICE STATION,
KANJIAPALLY - 686 120.**
- 2. THE SUB INSPECTOR OF POLICE,
KANJIAPALLY POLICE STATION,
KANJIAPALLY - 686 120.**
- 3. NOORUDHEEN,
S/O. MUHAMMED, VALIAVEETIL HOUSE,
NADACKAL P.O., ERATTUPETTA, PIN - 686 121.**
- 4. SIRAJ
S/O. PAREEKUTTY,
THEKKEMANGALAM, KADUVAMUZHY
ERATTUPETTA - 686 121.**

**R1 & 2 BY ADV. SMT. SREELATHA PARAMESWARAN, (SPL. G.P. FOR WOMEN
AND CHILDREN)**

**R3 & 4 BY ADVS. SRI.BABY THOMAS
SRI.K.D.ZACHARIAS**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 25-09-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

**C.K. ABDUL REHIM, J.
&
SHAJI. P. CHALY, J.**

W.P (Crl.) No. 352 OF 2015

DATED THIS THE 25th DAY OF SEPTEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is seeking a writ of Habeas Corpus for directing production of the alleged detenues, namely (1) Tony Thomas who is the son of the petitioner and (2) Aishamol V.M, who is daughter of the 3rd respondent. Allegations are to the effect that, the alleged detenues were missing from 30-07-2015 onwards and their whereabouts could not be traced out despite of frantic search made by the petitioner and his relatives. It is stated that the petitioner came to know that the detenues were in love and they have decided to get married. But they belonged to different religion. It is alleged that the love affair between the detenues were known to the 3rd respondent and he had also objected to the inter-caste marriage. But the 4th respondent is a close relative of the 3rd respondent and he is

an activist of a communal organization. He made threatening calls to the petitioner over telephone stating that the detenues will not be permitted to enter into any marriage by the organization to which the respondents 3 & 4 are having allegiance. Under the above mentioned circumstances, based on an apprehension that the detenues are illegally detained in the custody of respondents 3 & 4, this writ petition is filed.

2. Pursuant to notice issued from this court, the respondents 3 & 4 had entered appearance through counsel and produced the alleged detenues before this court on 12-08-2015. When interacted both the alleged detenues expressed their determination to marry each other and to live together. According to them they have left their respective homes on 30-07-2015, because the family members were not agreeing for their marriage due to the difference in community. The 2nd detenue Miss. Aishamol V.M. expressed her unwillingness to go along with the 3rd respondent. Since there existed no valid marriage between

the alleged detenues, this court directed Miss. Aishamol V.M. to be admitted in a Hostel under orders of this court. The 1st detinue was permitted to go along with the petitioner. He was also permitted to take steps to submit notice of intimation of marriage under the Special Marriage Act. The 3rd respondent and other family members are permitted to have access to Miss. Aishamol V.M. who was directed to be admitted in the Hostel.

3. On 19-08-2015 when the case is taken up for further consideration, proof was produced before this court with respect to submission of the notice of intimation of marriage before the Marriage Officer, Koovappally on 18-08-2015. It was informed that Miss. Aishamol V.M. had expressed her willingness to stay at the parental house, until the marriage is over. Therefore we directed to produce Miss. Aishamol V.M. before this court on 20-08-2015. When she was produced before this court, she expressed her desire to go along with the 3rd respondent and to stay at the parental house till the marriage under the Special Marriage

Act is solemnized. Accordingly the earlier order was modified and the 3rd respondent was permitted to take the alleged detinue, Miss. Aishamol V.M. till solemnization of marriage. The alleged detenues were permitted to appear before the Marriage Officer for completing the requisite formalities with respect to solemnization of the marriage.

4. Today when the case is taken up, learned counsel appearing for the petitioner had produced copy of the 'Certificate of Marriage' issued by the Marriage Officer, Koovappally, dated 19-09-2015 for perusal of this court. The certificate would indicate that a valid marriage has been solemnized between the detenues, Tony Thomas and Aishamol V.M. on 19-09-2015. This court takes on record the valid marriage established between the alleged detenues. Both the alleged detenues are personally present before this court. They said that they are intending to live together as husband and wife at the house of the 3rd respondent.

5. Under the above mentioned circumstances this writ petition is hereby disposed of by taking note of the valid marriage established between the alleged detenues. They are set at liberty to live together as husband and wife at any place of their choice.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

SHAJI. P. CHALY, JUDGE.

AMG

True copy

P.A. to Judge