

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(CrL.).No. 354 of 2015 (S)

PETITIONER :

KISHORE KUMAR S.K. AGED 28 YEARS
S/O.KRISHNAN, SASTSHAMPADI HOUSE, MULAVUKAD P.O
ERNAKULAM DISTRICT. 682 504.

BY ADVS.SRI.C.P.PEETHAMBARAN
SRI.M.X.ANTONY LIJO

RESPONDENTS :

1. THE COMMISSIONER OF POLICE, ERNAKULAM
682 031.

2. THE SUB INSPECTOR OF POLICE
PALARIVATTOM POLICE STATION
ERNAKULAM DISTRICT. 682 034.

3. CLEETUS P.M
PALLIKKAVEETIL HOUSE, VALLARPADAM P.O
ERNAKULAM 682 534.

R3 BY ADVS. SRI.S.RAJEEV

SRI.K.K.DHEERENDRAKRISHNAN

R1 & R2 BY SPL.GOVERNMENT PLEADER FOR WOMEN & CHILDREN SMT.SREELATHA
PARAMESWARAN

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE DRIVING LICENSE OF THE PETITIONER.

EXHIBIT P2. COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF THE
DETENUE.

EXHIBIT P3. COPY OF THE RECEIPT DATED 3.8.15 FOR THE APPLICATION ISSUED BY THE
REGISTRAR OF MARRIAGES, ERNAKULAM.

EXHIBIT P4. COPY OF THE CERTIFICATE DATED 7.8.15 ISSUED BY THE KALAVAMKODAM
SHREESAKTHEESWARA TEMPLE, CHERTHALA, ALAPPUZHA DISTRICT.

EXHIBIT P5. COPY OF THE RECEIPT DATED 6.8.15 ISSUED BY THE SAID TEMPLE.

EXHIBIT P6. COPY OF THE PHOTOGRAPHS SHOWING THE MARRIAGE.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

PA TO JUDGE

AV

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

W.P (CrI.) No. 354 OF 2015

DATED THIS THE 12th DAY OF OCTOBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

Averments in the writ petition are to the effect that the petitioner and one Miss.Helna Mary, who is the daughter of the 3rd respondent, were in love and they have decided to marry each other. It is stated that they have submitted an application before the Marriage Officer, Ernakulam to solemnize the marriage under the Special Marriage Act on 03-08-2015. Exhibit P3 is the acknowledgment for receipt of money evidencing payment of fee issued when the notice of intention of marriage was submitted. It is also mentioned that they have conducted a religious marriage under Hindu custom before a temple at Cherthala, on 06-08-2015. The certificate issued from the temple is produced as Ext.P4. After the marriage the petitioner and the alleged detinue proceeded to Munnar. But the 2nd respondent had taken the

alleged detainee into custody on 06-08-2015 at 11.30 a.m. and forcefully taken her in a vehicle. It is alleged that the 2nd respondent had acted illegally under undue influence of the 3rd respondent and taken the alleged detainee into custody and entrusted her with the 3rd respondent, against her free will. Alleging that the 3rd respondent is now detaining the alleged detainee against her will, this case is instituted seeking a writ of Habeas Corpus for directing production of the corpus of Miss. Helna Mary and to set her at liberty.

2. Pursuant to notice issued from this court, the 3rd respondent had produced the alleged detainee on 17-08-2015. When interacted, she admitted about solemnization of the marriage before the temple on 06-08-2015. But it is stated that the police authorities have taken her into custody on 07-08-2015 and she was sent along with her parents, since she expressed willingness to stay with them for a period of one month, till the solemnization of marriage. But when produced before this court she was not willing to go along with the 3rd respondent. Taking note of the fact

that the petitioner and the alleged detinue belong to different religion, there is no legal sanctity for the marriage allegedly solemnized before a Temple. Hence this court was not inclined to send the alleged detinue along with the petitioner. Therefore the 2nd respondent was directed to admit the alleged detinue at a hostel at Ernakulam, and the petitioner was directed to meet the expenses. The family members of the alleged detinue were permitted to visit and to provide her with appropriate counselling.

3. Thereafter the alleged detinue was again produced before this court on 03-09-2015. She expressed her firm determination to marry the petitioner on the basis of the notice of intention already submitted to the Marriage Officer on 03-08-2015. Accordingly we directed the alleged detinue to be taken to the Marriage Officer for solemnization of the marriage. Thereafter the case was posted for production of Certificate of Marriage before this court to 07-09-2015. On 07-09-2015 it was brought to notice of this court that the marriage could not be solemnized because there was some discrepancy occurred in the

publication of the notice. On that day also, when we interacted, the alleged detainee expressed her strong determination to solemnize the marriage with the petitioner and she was not prepared to go back to her parental house. Therefore we directed the 2nd respondent to admit her in another hostel at Ernakulam, at the expenses of the petitioner. The petitioner was directed to take steps for submission of fresh notice of intention of marriage, after getting signature of the alleged detainee. He was directed to produce the proof regarding submission of the notice of intention of marriage. Accordingly, on 10-09-2015, proof regarding submission of notice of intention of marriage before the Marriage Officer, Ernakulam, dated 08-09-2015 was produced. The alleged detainee expressed her desire to stay in the first hostel where she was admitted based on orders of this court. Therefore the 2nd respondent was directed to admit her in the very same hostel, and to take her for solemnization of the marriage before the Marriage Officer, on 09-10-2015. The case was adjourned to today for production of the Marriage Certificate.

4. Today when the case is taken up, counsel appearing for the petitioner had produced the Certificate of Marriage issued under the Special Marriage Act, by the Marriage Officer, Ernakulam, dated 09-10-2015, for our perusal. The certificate would indicate that a valid marriage has been solemnized between the petitioner and the alleged detainee on 09-10-2015. This court takes on record the valid marriage established between them.

5. Under the above mentioned circumstances, this writ petition is disposed of by setting the alleged detainee at liberty to go along with the petitioner, based on the valid marriage solemnized. She is permitted to reside along with the petitioner as husband and wife on the basis of valid marriage, at any place of their choice.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

AMG

True copy

P.A. to Judge