

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

&

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(Crl.).No. 357 of 2015 (S)

PETITIONER:

ALBERT SAN D'SILVA, AGED 26 YEARS,
S/O. ANTONY D'SILVA, VALIYAKATTATHU HOUSE
NARAKKAL P.O, MANJANAKKAD, ERNAKULAM DISTRICT 682 505

BY ADV. SRI.MATHEW KURIAKOSE

RESPONDENTS:

1. STATE POLICE CHIEF
TIRUVANANTHAPURAM 676 504
 2. THE DISTRICT POLICE CHIEF
ERNAKULAM 682 031
 3. THE STATION HOUSE OFFICER
NARAKKAL POLICE STATION, PIN 682 505
 4. V.A THOMAS, AGED 56 YEARS
S/O. AUGUSTINE, VALIKODATH HOUSE, NARAKKAL P.O
MANJANAKAD, ERNAKULAM PIN 682 505
 5. TREASA, AGED 50 YEARS
W/O. V.A THOMAS, VALIKODATH HOUSE, NARAKKAL P.O
MANJANAKAD, ERNAKULAM PIN 682 505
 6. TUENY THOMAS (DETENUE), AGED 24 YEARS
D/O. THOMAS, VALIKODATH HOUSE, NARAKKAL P.O
MANJANAKAD, ERNAKULAM PIN 682 505
- R1-R3 BY GOVERNMENT PLEADER SRI. SHIBU JOSEPH WITH
SRI. TOM JOSE PADINJAREKKARA - ADDL.DIRECTOR GENERAL OF
PROSECUTION

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 18-08-2015,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 357 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1 TRUE COPY OF THE BONAFIDE CERTIFICATE DATED 25-10-2013 OF THE PETITIONER
ISSUED BY THE PRINCIPAL OF KAVERI COLLEGE OF ENGINEERING MECHERI,SALEM

EXHIBIT P2 TRUE COPY OF THE STUDENT PROFILE AND RESULT FOR APRIL/MAY 2015 AS
REGARDS THE PETITIOENR, DOWLOADED FROM THE WEBSITE OF ANNA UNIVERSITY CHENNAI

EXHIBIT P3 TRUE COPY OF SOME OF THE LETTERS WRITTEN AND ISSUED BY THE RESPONDENT
NO.6 TO THE PETITIONER

EXHIBIT P4 TRUE COPY OF SOME OF THE CHAT MESSAGES BETWEEN THE 6TH RESPONDENT AND
THE PETITIONER THROUGH FACEBOOK

EXHIBIT P5 TRUE COPY OF SOME OF THE E-MAILS ISSUED BY THE 6TH RESPONDENT TO THE
PETITIONER

EXHIBIT P6 TRUE COPY OF THE DIARY ENTRIES OF THE 6TH RESPONDENT

EXHIBIT P7 TRUE COPY OF THE PRINTOUT OF THE SMS (SHORT MESSAGE SERVICE) MESSAGES
ISSUED BY THE 6TH RESPONDENT TO THE PETITIONER'S COUSIN SISTER

RESPONDENTS' EXHIBITS: NIL

/TRUE COPY/

P.S TO JUDGE

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

.....
W.P.(Crl)No.357 of 2015
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Dated this the 18th day of August, 2015.

JUDGMENT

Abdul Rehim,J:

The petitioner is seeking a writ of habeas corpus for directing production of the corpus of the 6th respondent, who is alleged to have been detained by respondents 4 and 5, her parents. It is stated that the petitioner and the 6th respondent were in love for the past more than 8 years and they were contacting each other very frequently on mobile phone, facebook and e-mail. Respondents 4 and 5 have not supported the said relationship and were compelling the 6th respondent to concede for another marriage. It is alleged that, due to such compulsion the 6th respondent came out of her parental house on 2.8.2015 to the house of the petitioner. But the respondents 4 and 5 have contacted parents of the petitioner and after a detailed discussion they have agreed to give the 6th respondent in marriage to the petitioner. Accordingly, the 6th respondent went back along with the parents on the evening of 2.8.2015 itself. But against the promise made, the respondents 4 and 5

have taken the 6th respondent to some unknown places and detained her under confinement, without allowing the petitioner to have any contact with the 6th respondent. Under such circumstances, alleging that the 6th respondent is under illegal confinement of respondents 4 and 5 against her free will, this writ petition is filed.

2. When the case came up for admission on 11.8.2015, this court directed the 3rd respondent to conduct a discrete enquiry regarding the alleged illegal confinement. The 3rd respondent was directed to depute a woman police officer for recording an independent statement of the alleged detainee, not in the presence of any of the family members or others.

3. The 3rd respondent had filed a statement enclosing the statement recorded from the 6th respondent. On a perusal of the statement recorded from the alleged detainee it is evident that, she had admitted the love affair with the petitioner. It is stated that she developed intimacy with the petitioner since more than 5 years ago. It is also conceded that the mother of petitioner had contacted her parents over telephone proposing for a marriage with the petitioner. But her parents had informed

that they are not interested in the said marriage. According to the 6th respondent, on 4.8.2015 she had informed the uncle of the petitioner over telephone that she is not interested in marrying the petitioner since her parents are not willing for such an alliance. It is categorically stated by the 6th respondent that it is on her own will that she had informed that she had not interested in marrying the petitioner. It is also mentioned that she is not under any illegal confinement.

4. Under the above mentioned circumstances, we are convinced that there is no basis for the allegation that the 6th respondent is illegally detained by respondents 4 and 5 against her free will. Learned counsel for the petitioner raised contention that the statement given by the alleged detainee before the police authorities may not be voluntary and it may only be on the basis of compulsion of her parents. He made a plea to this court for directing production of the 6th respondent, the alleged detainee. But we do not find any materials to presume that there is any illegal detention against the free will of the 6th respondent. There is no circumstances to express any doubt regarding genuineness of the statement made by the 6th

respondent because the said statement was recorded by a woman police officer visited her not in uniform and the statement was recorded not in the presence of any other family members or others.

5. Hence we are of the considered opinion that there exists no circumstances warranting interference of this court to invoke jurisdiction vested under Article 226 of the Constitution, to issue any writ of habeas corpus.

Therefore, this writ petition fails and the same is hereby dismissed.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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