

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 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

WP(Crl.).No. 368 of 2015 (S)

PETITIONER(S):

MR.RAMACHANDRAN ASSARI AGED 53 YEARS
S/O.KRISHNAN ASSARI, KALPAKASSERY HOUSE, THEKKUMBHAGAM
AMBALATHINKARA, KAZHAKKUTTAM P.O
THIRUVANTHAPURAM DISTRICT. 695 582.

BY ADVS.SRI.P.M.JOSHI
SMT.SIJI K.PAUL

RESPONDENT(S):

1. DINU BABU
S/O.BABU, DEEPU BHAVAN, NETTAYAKKONAM
KAZHAKKOOTTAM P.O, THIRUVANANTHAPURAM 695 582.
2. BABU
RESIDING AT DEEPU BHAVAN, NEYYAYAKKONAM
KAZHAKKOOTTAM P.O, 695 582.
3. SUPERINTENDENT OF POLICE (RURAL)
THIRUVANANTHAPURAM 695 001.
4. SUB INSPECTOR OF POLICE
KAZHAKKOOTTAM POLICE STATION
THIRUVANANTHAPURAM DISTRICT. 695 001.

R1&2 BY ADV. SRI.R.SUNIL KUMAR
R1&2 BY ADV. SMT.A.SALINI LAL
R BY SPL.GOVERNMENT PLEADER SMT. SREELATHA

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
31-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 368 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE COMPLAINT DATED 7.5.15 TO KAZHAKKOTTAM
POLICE STATION.

EXHIBIT P2. COPY OF THE FIR NO.481/15 DATED 7.5.15 OF KAZHAKKOTTAM
POLICE STATION.

EXHIBIT P3. COPY OF THE COMPLAINT DATED 10.7.15 PETITIONER SUBMITTED
TO 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

PS TO JUDGE

C.K.ABDUL REHIM & MARY JOSEPH, JJ.

WP(CR) No. 368 of 2015

Dated this the 31st day of August, 2015

JUDGMENT

Abdul Rehim,J.

The petitioner is the father of a girl aged 22 years viz. Revathy Chandran. He is approaching this court based on allegation that Miss Revathy Chandran is missing from his house since 6.5.2015 onwards. It is stated that a complaint was lodged before the 4th respondent with respect to the missing of the petitioner's daughter, based on which Ext.P2 case was registered by the 4th respondent under section 57 of the Kerala Police Act. It is averred in the writ petition that the 4th respondent had taken the 1st respondent into custody and produced him before the Judicial First Class Magistrate Court II, Attingal. The learned Magistrate recorded the statement of the petitioner's daughter and due to the threat from the side of respondents 1 and 2 she gave a statement supporting the 1st respondent. Hence the learned Magistrate allowed the 1st respondent to take the

petitioner's daughter along with him. It is complained that the petitioner's daughter is being harassed under illegal custody by respondents 1 and 2, demanding dowry and that she was not allowed to visit her parental home. It is alleged that the petitioner's daughter had contacted her brother over telephone and narrated all the incidents of harassment, both physical and mental which she is suffering from respondents 1 and 2. Eventhough the petitioner approached the 4th respondent with a complaint under Ext.P3 narrating the above facts, no action was taken , is the allegation. Based on a specific contention that the petitioner's daughter Miss. Revathy Chandran is under illegal confinement of respondents 1 and 2, this writ petition is filed seeking a writ of habeas corpus for directing her production and for handing over her custody to the petitioner.

2. Based on notice issued from this court respondents 1 and 2 appeared through counsel. Respondents 1 and 2 are personally present along with the alleged detenu. We have interacted with the alleged detenu independently. She said that she was studying in the last semester for B.Sc Computer Science in UAT College, Pirappancode. According to her, 6.5.2015 was

the last day of her college and there was a farewell party arranged at the college. But the 1st respondent instructed her not to go to the college on that day and to come to a particular place, otherwise it was threatened that the 1st respondent will do away with the petitioner. According to her, when she met the 1st respondent on 6.5.2015, she was taken by the 1st respondent to a friend's house. On the morning of 7.5.2015 a marriage was solemnised under compulsion, at a temple at Alammoodu. Subsequently she was taken before the 4th respondent on the premise that a missing case was registered. On 7.5.2015 she was produced before the Magistrate Court at Attingal. At that time, the 1st respondent had compelled her to give statement before the Magistrate to the extent that she wants to go along with him. Accordingly, due to threat and compulsion, she gave a statement before the Magistrate that she wants to go along with the 1st respondent. According to the alleged detenu, subsequently the marriage was registered before the Marriage Registering Officer at Thiruvananthapuram Corporation. The alleged detenu categorically stated that her life in the residence of the 1st respondent is highly miserable that she is being

harassed demanding more dowry. It is also mentioned that the attitude and approach of the family members of the 1st respondent has changed and she happened to stay there only because of threat and coercion from the side of the 1st respondent and his family members. She expressed her strong desire to go along with the petitioner to her parental house.

3. On the basis of the statement given by the alleged detenu, we directed the alleged detenu to have interaction with the petitioner and her mother, who are present before this court. we have also interacted with the petitioner personally. He expressed willingness to take the alleged detenu along with him to the parental house, as desired by her. Learned counsel appearing for respondents 1 and 2 have denied all the allegations made by the alleged detenu. It is stated that she had voluntarily left her parental house based on a specific decision taken for having marriage with the 1st respondent. All the allegations of harassment and torturing made by the alleged detenu was stoutly denied. It is pointed out that a valid marriage was solemnised between the alleged detenu and the 1st respondent on 7.5.2015 at "Padinjare Sree Durga Bhagavathy

Temple,” Kulathoor, Thiruvananthapuram. It is also mentioned that the said marriage was registered before the Local Authority under provisions of the Kerala Registration of Marriages (Common) Rules 2008. Learned counsel had produced the Certificate of Marriage for our perusal, which would indicate that the marriage solemnised in the above said temple on 7.5.2015 was registered before the Local Registrar Thiruvananthapuram Corporation on 19.5.2015.

4. In this writ petition we are concerned only with the aspect of illegal detention against free will of the alleged detenu. The alleged detenu, when interacted by this court, had specifically mentioned that she is now being detained in the house of respondents 1 and 2 against her free will. She expressed her strong desire to go along with the petitioner to her parental house . Under such circumstance this court is bound to pass an order setting her at liberty, to permit her to reside at any place of her choice. We make it clear that this court is not going into any adjudication on the disputes relating to the marital relationship of the alleged detenu and the 1st respondent. It will be left open to the parties to seek appropriate remedy

regarding such disputes if any, before the appropriate forum.

5. Under the above mentioned circumstance the writ petition is disposed of by setting the alleged detenu Miss.Revathy Chandran at liberty to go along with the petitioner and to reside at her parental house, as per her desire.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH,JUDGE

Pmn/

