

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 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

WP(Cr1.).No. 374 of 2015 (S)

PETITIONER(S) :

AUGUSTINE P.A. AGED 65 YEARS
S/O.K.J.ANTONY, PULLAN HOUSE, OLIPARAMBU SUB ROAD
PAWANKULANGARA ROAD, TRIPUNITHURA
ERNAKULAM DISTRICT-682 301.

BY ADVS.SRI.K.J.MOHAMMED ANZAR
SRI.A.D.SURESH BABU
SRI.DILEEP D BHAT

RESPONDENT(S) :

1. THE CITY POLICE COMMISSIONER, KOCHI
CITY POLICE COMMISSIONER'S OFFICE, REVENUE TOWER
HOUSING BOARD BUILDING, BOAT JETTY, KOCHI
ERNAKULAM-682 035.

2. THE DISTRICT PLICE CHIEF & SUPERINTENDENT OF POLICE
THRISSUR RURAL, CIVIL STATION, AYYANTHOLE
THRISSUR-680 003.

3. THE STATION HOUSE OFFICER
HILL PALACE POLICE STATION, THRIIPUNITHIRA
ERNAKULAM-682 301.

4. THE STATION HOUSE OFFICER
CHERPU POLICE STATION, THRISSUR DISTRICT-680 561.

5. RANJEESH @ KANNAN
S/O.VELAYUDHAN, BEHIND ST.MARY'S CHAPPEL, PARIS ROAD
AMMADOM, THRISSUR DISTRICT-680 563.

R1-R4 BY GOVERNMENT PLEADER SMT.SREELATHA PARAMESWARAN
R5 BY ADV. SRI.RENJITH THAMPAN (SR.)

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 374 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.1. TRUE COPY OF THE FIR DATED 21/8/2015 IN CRIME NO.1204/2015 OF
HILL PALACE POLICE STATION, THRIpunithira.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

vdv

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

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W.P.(CrI.) No.374 of 2015

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Dated this the 23rd day of November, 2015

JUDGMENT

Abdul Rehim, J.

1. The petitioner who is the father of a girl aged 27 years namely, 'Midhun Pusha Augustine' (hereinafter referred as the 'alleged detainee') is the petitioner herein. He is approaching this court seeking a writ of Habeas Corpus commanding production of the corpus of the alleged detainee, who is alleged to have been detained illegally by the 5th respondent.
2. It is stated that the alleged detainee is a B.Tech graduate. According to the petitioner, the 5th respondent is an unemployed person and having no educational qualification. Allegation is that the 5th respondent had taken away the alleged detainee from the petitioner's house on 16.08.2015 in a deceitful manner. Despite lodging of a complaint with respect to missing of the alleged detainee and despite registration of a case by the 3rd respondent under Section 57 of the Kerala Police Act, no effective steps to trace out the alleged detainee is being taken, is the grievance. It is

alleged that the 5th respondent is compelling the alleged detainee for a marriage, despite the fact that both of them belongs to different religion. It is also alleged that the 5th respondent will spoil life of the alleged detainee and will obtain her consent by force in a deceitful manner to solemnize a marriage under the Special Marriage Act, which need to be prevented. Based on the specific allegation that the alleged detainee is being detained against her free will, this writ petition is filed.

3. On 31.08.2015 the alleged detainee was traced out and produced before this court based on Ext.P1 case registered and the notice issued from this court. When we interacted, the alleged detainee said that she had gone along with the 5th respondent voluntarily on her own will, on 16.08.2015. It is told that she was in love with the 5th respondent and they have decided to marry each other. She said that a marriage ceremony was conducted in a Temple at Peringottukara in Thrissur district.

4. Having considered the fact that the parties belong to different religion and no valid marriage has been established, this court was not willing to send the alleged detainee along with the 5th respondent, even though she expressed such a desire. She

expressed willingness to go along with the petitioner for the time being, till she takes a final decision with respect to continuance of her relationship with the 5th respondent. Accordingly, this court permitted the petitioner to take the alleged detainee along with him to the parental house. The case was adjourned for further consideration to 07.09.2015.

5. On 07.09.2015 when the alleged detainee was produced before this court, she reiterated her strong determination to marry the 5th respondent and to lead a life with him. She was not willing to go back along with the petitioner to the parental house. She expressed her desire to go along with the 5th respondent. Having found that there is no valid marriage established, this court directed the 3rd respondent to admit the alleged detainee at a hostel at Ernakulam, based on the undertaking made by the petitioner to meet the expense. The 5th respondent was permitted to submit the notice of intended marriage, before the Marriage Officer, for solemnizing marriage under the Special Marriage Act. Proof regarding submission of such notice was directed to be produced before this court.

6. In the meanwhile, the petitioner filed an interim application

seeking permission from this court to subject the alleged detainee for psychological counselling by consulting a Doctor at a hospital at Ernakulam. The said application was opposed by the counsel appearing for the 5th respondent, stating that the intention of the family members is only to cause disturbance to peaceful stay of the alleged detainee at the hostel. However, this court permitted the petitioner to arrange counselling to the alleged detainee at the hostel itself, through any qualified family counsellor/clinical Psychologist.

7. The 5th respondent had produced proof evidencing submission of the notice of intended marriage before the Marriage Officer, on 11.09.2015. When the case was taken up for consideration on 08.10.2015, the alleged detainee was again produced before this court. On interaction, she was not in a position to express any final decision with respect to solemnization of the marriage. She requested more time to arrive at a final conclusion. Hence the case was again adjourned to 14.10.2015. On that day, the alleged detainee expressed her determination to go ahead with the marriage proposed. Hence the alleged detainee was permitted to appear before the Marriage Officer for solemnization of the

marriage, on 16.10.2015. The 3rd respondent was directed to take the alleged detainee from the hostel to the Marriage Office and back.

8. Thereafter when the case was taken up for further consideration on 19.10.2015, it was informed that the marriage could not be solemnized because there occurred some discrepancy in the application, which was raised as an objection from the side of the petitioner. It was informed that a fresh notice of intended marriage was submitted on 14.10.2015, and that the marriage could be solemnized within a period of 30 days thereof. Based on desire expressed by the alleged detainee, this court permitted continuance of her stay at the very same hostel. The case was adjourned to 21.10.2015. On the said date, this court passed an order permitting the alleged detainee to appear before the Marriage Officer on 16.11.2015. The case was posted to 18.11.2015 for production of the Marriage Certificate.

9. On 18.11.2015 when the case was taken up it was informed that the marriage could not be solemnized even on 16.11.2015, because of a scene created before the Marriage Officer from the side of the petitioner, his family members and their henchmen.

But the alleged detainee, who was present personally before this court, expressed the view that it is only because of the strong restraintment created from the side of the petitioner and other family members, that she could not sign the Marriage Register and perform the marriage. She expressed her strong desire to solemnize the marriage and to go along with the 5th respondent. Accordingly this court directed the 3rd respondent to make necessary arrangements for solemnization of the marriage on 20.11.2015

10. Today when the case is taken up, counsel appearing for the 5th respondent had produced the Certificate of Marriage issued by the Marriage Officer, Cherpu, under Section 13 of the Special Marriage Act. The Certificate produced would indicate that a valid marriage has been established between the alleged detainee and the 5th respondent on 20.11.2015. This court takes on record the valid marriage established between the alleged detainee and the 5th respondent. Both the alleged detainee and the 5th respondent are personally present before this court. They informed this court that they are intending to lead a life based on the marriage, at the house of the 5th respondent.

11. Since this court is convinced that a valid marriage has been established between the alleged detainee and the 5th respondent and that the alleged detainee is not under any illegal confinement, the above writ petition is hereby disposed of by setting aside the alleged detainee at liberty to go along with the 5th respondent, to lead a marital life with him on the basis of the valid marriage established, at any place of their choice.

Sd/-
C.K .ABDUL REHIM, JUDGE

Sd/-
MARY JOSEPH, JUDGE

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