

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(Crl.).No. 396 of 2015 (S)

PETITIONER(S) :

VINU K.VIJAYAN AGED 27 YEARS
S/O.VIJAYAN, KOCHUVILAYIL HOUSE, KAIPATTOOR PO
PIN-689 648, VALLICODE VILLAGE
PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEPARTMENT OF HOME
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM-695 001.
2. THE DISTRICT POLICE CHIEF, KOLLAM,
PIN-691 001.
3. THE STATION HOUSE OFFICER
KOTTARAKARA POLICE STATION, KOLLAM DISTRICT
PIN-691 533.
4. NANUKUTTAN, AGED 52 YEARS
KUZHIVELIL PADINJATTETHIL HOUSE, KALAYAPURAM PO
PIN-691 560, KOTTARAKKARA, KOLLAM DISTRICT.

R1-R3 BY GOVERNMENT PLEADER SRI.KAREEM
R4 BY ADV. SMT.G.VIDYA

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 396 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 : TRUE COPY OF CERTIFICATE EVIDENCING THE MARRIAGE BETWEEN THE
PETITIONER AND JYOTHI @ NAYANA N.KUTTAN ISSUED BY KARAKKAD
VALAVOORKKAVU DEVIMALA SAMRAKSHANA SAMITHI, KAIPATTOR.

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

P.A TO JUDGE

vdv

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

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W.P.(Crl.) No.396 of 2015

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Dated this the 30th day of September, 2015

JUDGMENT

Abdul Rehim, J.

The petitioner seeks for a writ of Habeas Corpus for directing production of the corpus of Miss.Jyothi @ Nayana N.Kuttan, daughter of 4th respondent, before this court and to set her at liberty. Allegation is to the effect that the 4th respondent is illegally detaining the above said girl, against her free will. It is stated that the petitioner and the alleged detenue were in love for the last so many years and they have solemnized a customary marriage as per the rites and ceremonies prevailing in the Hindu community, on 26.06.2015. Ext.P1 certificate issued from a temple at Kaipattoor is produced to prove the said marriage. Even after the marriage the alleged detenue was living with the 4th respondent at her parental house, without revealing the marriage to her family members. When the 4th respondent started inviting other marriage proposals for the alleged detenue, she had resisted and informed about the marriage solemnized with the petitioner. Having got infuriated by such an information the 4th respondent compelled the alleged detenue to

dissolve the marriage and put her under illegal confinement. From 30.08.2015 onwards the alleged detenue was not allowed to have any contact with the petitioner or anybody else, is the allegation. It is also alleged that the 4th respondent and his henchmen had threatened the petitioner demanding to nullify the marriage. Having got information from a relative of the alleged detenue that she is being locked up at the house of the 4th respondent, this writ petition is filed alleging that the wife of the petitioner is under illegal confinement against her free will.

2. Pursuant to notice issued from this court, the 4th respondent appeared through counsel and produced the alleged detenue before this court on 25.09.2015. On interaction, the alleged detenue had conceded about the marriage. She said that the 4th respondent and her family members are not willing to accept the marriage and they have not permitted the alleged detenue to go along with the petitioner. She expressed her strong determination to lead a life with the petitioner as man and wife, based on the marriage already solemnized. When we interacted with the 4th respondent, who was personally present before this court, he expressed the strong

decision of his family, not to accept any marriage between the petitioner and alleged detainee.

3. This court finds that the marriage solemnized before the temple, which is evidenced through Ext.P1 certificate, can be accepted as a valid marriage, because both the parties belong to the same religion. But this court directed the petitioner to take necessary steps for registration of the marriage under the Kerala Registration of Marriages (Common) Rules, 2008, and to produce the Marriage Certificate before this court. Based on the strong desire expressed by the alleged detainee, she was permitted to go along with the petitioner.

3. Today when the case is taken up for consideration, the learned counsel appearing for the petitioner had produced copy of the 'Certificate of Marriage' for perusal of this court. It is evident that the marriage solemnized between the petitioner and the alleged detainee on 26.06.2015 at "Kaipattoor Vayalavadaku Karakkad Kailasanath Temple" was registered before the Local Registrar of Marriages, Vallicode Grama Panchayat (Secretary, Vallicode Grama Panchayat) on 28.09.2015.

4. This court takes note on record the valid marriage established between the petitioner and the alleged detainee. The alleged detainee was already set at liberty to go along with the petitioner on 25.09.2015, to lead a matrimonial life as husband and wife. Hence this writ petition is hereby disposed of by recording that the alleged detainee is not under any illegal confinement and that she is leading a matrimonial life with the petitioner.

Sd/-
C.K .ABDUL REHIM, JUDGE

Sd/-
MARY JOSEPH, JUDGE

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