

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(Crl.).No.399 of 2015 (S)

PETITIONER:

RAVINDRANATHAN C., AGED 54 YEARS
S/O.M.KRISHNAN, 'SHEETHAL', KIDANGIL
PERINTHALMANNA PO, MALAPPURAM DISTRICT

BY ADV. SRI.C.K.MOHANAN

RESPONDENTS:

1. SUB INSPECTOR OF POLICE
PERINTHALMANNA POLICE STATION, PERINTHALMANNA PO
MALAPPURAM DISTRICT 679322
 2. CIRCLE INSPECTOR OF POLICE
PERINTHALMANNA PO, MALAPPURAM DISTRICT 679322
 3. THE SUPERINTENDENT OF POLICE,
MALAPPURAM-679 001
 4. DIRECTOR GENERAL OF POLICE
(LAW & ORDER) POLICE HEAD QUARTERS
THIRUVANANTHAPURAM 695001
 5. NABEEL MUHAMMED, AGED 30 YEARS
S/O.MUHAMMED, VALIYAPEEDIKAKKAL, PERINTHALMANNA PO
MALAPPURAM DISTRICT 679322
 6. MUHAMMED VP (FATHER'S NAME NOT KNOWN TO THE PETITIONER),
AGED ABOUT 60 YEARS,
VALIYAPEEDIKAKKAL, PERINTHALMANNA PO
MALAPPURAM DISTRICT 679322
 7. UMMULKHAIR, AGED 55 YEARS
W/O.MUHAMMED VP, VALIYAPEEDIKAKKAL, PERINTHALMANNA PO
MALAPPURAM DISTRICT 679322
 8. SHANU MUHAMMED, AGED 26 YEARS
S/O.MUHAMMED, VALIYAPEEDIKAKKAL, PERINTHALMANNA PO
MALAPPURAM DISTRICT 679322
- R1-R4 BY GOVT. PLEADER SRI.P.S.ABDUL KAREEM
WITH ADDL. DIRECTOR GENERAL OF PROSECUTION SRI.K.I.ABDUL RASHEED.
R5 BY ADV. SRI.MAHESH V.MENON

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 22-12-2015,
ALONG WITH WPCR. 392/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(Crl.).No.392 of 2015 (S)

PETITIONER:

NABEEL MUHAMMED, AGED 28 YEARS,
S/O. MUHAMMED, VALIYAPEEDIKAKKAL HOUSE
P.O. PERINTHALMANNA, MALAPPURAM DISTRICT.

BY ADV. SRI.MAHESH V.MENON

RESPONDENTS:

1. THE DISTRICT POLICE CHIEF
MALAPPURAM - 676 505
2. THE SUB INSPECTOR OF POLICE,
PERINTHALMANNA - 679 322.
3. STATE REPRESENTED BY SECRETARY,
DEPARTMENT OF HOME AFFAIRS, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001
4. RAVINDRANATH, S/O. NOT KNOWN TO THE PETITIONER,
SHEETHAL, KIDANGIL PO., PERINTHALMANNA
MALAPPURAM DISTRICT, PIN 679 322.

R4 BY ADV. SRI.C.K.MOHANAN
R1 TO R3 BY GOVERNMENT PLEADER SRI.P.S.ABDUL KAREEM
WITH ADGP SRI.K.I.ABDUL RASHEED

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
22-12-2015, ALONG WITH W.P.(CRL).NO.399/2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

C.K.ABDUL REHIM & ALEXANDER THOMAS, JJ.

W.P(Crl.).Nos.392 & 399 Of 2015

Dated this the 22nd day of December, 2015.

J U D G M E N T

Abdul Rehim, J.

W.P(Crl).No.392/2015 is filed seeking a writ of Habeas Corpus for directing respondents 1 & 2 therein to produce the corpus of the alleged detenue, Ms.X (alleged lady detenue) before this Court and to set her at liberty. Averments in the case are to the effect that, the petitioner and the alleged detenue were in love since the last more than 3 years and they wanted to marry each other and to live together. But, since both of them belong to different religions, there is stringent opposition from their families. All efforts taken to join the families together and to get their consent were in vein. The alleged detenue had once left her home and came to the petitioner. But a case was registered by the police authorities, at the instance of the father of the alleged detenue, the 4th respondent. The police authorities have taken the alleged

detenue into custody and produced her before the Magistrate. Parents of the alleged detenue gave an assurance at that time that she will be given in marriage to the petitioner. But they have not stood by their words and failed to honour their commitment in giving her in marriage to the petitioner. From 24.8.2015 onwards the detenue is kept under illegal confinement without allowing her to contact with the petitioner. She is being detained against her free will, by restraining her from going to the job. Under such circumstances, alleging that the detenue is under illegal detention of the 4th respondent and his family, the said Writ Petition is filed.

2. W.P(Crl.).No.399/2015 is filed by the father of the alleged detenue, Ms.X. The petitioner in W.P.(Crl.).No.392/2015 is impleaded as 5th respondent therein. Respondents 6 to 8 are parents and brother of the 5th respondent. The relief sought for is to direct production of the alleged detenue and to set her at liberty. Allegations are to the effect that, the 5th respondent had abducted the alleged detenue on 16.9.2015 in order to convert her to Islam religion, against her free will, under threat, coercion and duress. It

is contended that the alleged detainee is under illegal detention of the 5th respondent, for which the respondents 6 to 8 have actively abetted. Based on a specific allegation that the alleged detainee is under illegal confinement of the 5th respondent, the above Writ Petition is filed.

3. Based on directions issued, the alleged detainee was produced before this Court by the petitioner in W.P. (Crl.)392/2015. On interaction, she said that she had completed B.D.S. Course and was working in a private Dental Clinic at Perinthalmanna. She said that she is in love with the petitioner in W.P.(Crl.). No.392/2015 since the last about 3 years. After knowing about the relationship, her parents have compelled her to stay at various places in houses of some relatives. While she was in Pune the petitioner came there and she went along with him on 16.9.2015. She said that she is at present staying in a hostel at Angadipuram in Perinthalmanna and is on the look out for a new job in any of the dental clinics or hospitals. She expressed her strong determination to marry the petitioner and to live with him.

The alleged detinue was not willing to go along with the father to her parental house. The petitioner in W.P.(CrI).No.392/2015 had expressed willingness to take steps to solemnize their marriage under the Special Marriage Act. On the above said premise, this Court permitted the alleged detinue to continue her stay at Jyothi Hostel, Angadipuram, Perinthalmanna under orders of this Court. The petitioner was directed to take steps for submitting the 'notice of intended marriage' before the Marriage Officer concerned.

4. Thereafter, on 8.10.2015, the petitioner in W.P(CrI).No.392/2015 had produced proof regarding submission of the 'notice of intended marriage', on 5.10.2015. It was informed that the marriage could be solemnized on completion of the statutory period of 30 days. Therefore, the alleged detinue was permitted to continue her stay in the above said hostel. But subsequently it was brought to notice of this Court that the petitioner in W.P(CrI).No.399/2015 had raised objection before the Marriage Officer, based on an allegation that the petitioner in W.P.(CrI).No.392/2015 is a married man and there exists a

marital relationship with another lady. Under such circumstances when the case was taken up for consideration on 12.11.2015, this Court had clarified that the Marriage Officer will be at liberty to consider such objection and to adjudicate upon the same, and to take a decision with respect to solemnization of the marriage. The alleged detainee was allowed to continue her stay in the very same hostel. 5. Subsequently it was brought to notice of this Court that the Marriage Officer, Perinthalmanna, after conducting an enquiry, had rejected the application for solemnization of the marriage, on the basis of the finding that there exists a valid marital relationship of the petitioner in W.P.(CrI.).No.392/2015 with another lady. Under such circumstances, this Court directed the alleged detainee to be produced in person.

4. Today when the case taken up for consideration the alleged detainee is produced before this Court. When we interacted she had emphatically denied the proposal to go back to her parental house. She wanted to continue her stay in the same hostel on the basis that she got employment in one of the Hospitals

at 'Pulamanthol'. It is informed that she is still intending to pursue her relationship with the petitioner and to get married with him in a legally acceptable manner, for which they are intending to submit a fresh application before the Marriage Officer.

5. From the facts and circumstances as enumerated above, it is evident that the alleged detainee is not under any illegal confinement. She is a major girl aged 26 years and she is at liberty to continue her stay at any place of her choice. Therefore, this Court is of the opinion that there exists no circumstances warranting issuance of any Writ of Habeas Corpus.

Therefore, both the above Writ Petitions are hereby dismissed, finding that the alleged detainee is not under illegal confinement. She is set at liberty to reside any place of her choice.

Sd/-

C.K.ABDUL REHIM, JUDGE.

Sd/-

ALEXANDER THOMAS, JUDGE.

bkn/-

CORRECTION

The name of the alleged detenue occurring in 3rd line of common judgment dated 22.12.2015 in W.P(Crl).No.392/2015 and W.P.(Crl).No.399 of 2015 is deleted and substituted by the description "Ms.X (alleged lady detenue) and also the name of the alleged detenue occurring in the 2nd line of paragraph No.2 is deleted and substituted as "Ms.X" as per the common order dated 11.10.2021 in I.A.No.1/2021 in W.P(Crl).No.399 of 2015 and I.A.No.1/2021 in W.P(Crl).No.392 of 2015.

Sd/-

JOINT REGISTRAR

WP(Crl.).No.392 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1:- TRUE COPY OF THE COMPLAINT DATED 06-09-2015 PRESENTED BEFORE THE 3RD RESPONDENT BY THE PETITIONER WITH ACKNOWLEDGEMENT ISSUED BY POLICE.

EXHIBIT P2:- TRUE COPY OF THE COMPLAINT DATED 08-09-2015 PRESENTED BEFORE THE 1ST RESPONDENT BY THE PETITIONER.

EXHIBIT P3: TRUE COPY OF THE PHOTOGRAPHS OF THE DETENUE AND THE PETITIONER

EXHIBIT P4:- TRUE COPY OF THE PRINT OUTS OF THE SMS MESSAGES EXCHANGED BETWEEN THE PETITIONER AND THE DETENUE IN AUGUST 2015.

EXT.P5: TRUE COPY OF THE APPLICATION DTD. 1.10.2015, FOR MARRIAGE UNDER THE SPECIAL MARRIAGE ACT SIGNED BY DETENUE AND THE PETITIONER SUBMITTED BEFORE THE MARRIAGE OFFICER.

EXT.P5(a): TRUE COPY OF THE POSTAL RECEIPT DTD. 1.10.2015 RELATING TO EXT.P5 APPLICATION.

EXT.P5(b): TRUE COPY OF THE MONEY ORDER RECEIPT DTD. 1.10.2015 EVIDENCING PAYMENT OF FEES FOR EXT.P5 APPLICATION.

EXT.P5(C): TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT DTD. 3.10.2015 OF EXT.P5 APPLICATION BEFORE THE SUB REGISTRAR, PERINTHALMANNA.

EXT.P6: TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT/RECEIPT DTD. 5.10.2015 ISSUED BY THE MARRIAGE OFFICER/SUB REGISTRAR EVIDENCING PAYMENT OF FEE FOR THE MARRIAGE AND ALSO DUE SUBMISSION OF THE APPLICATION FOR MARRIAGE.

RESPONDENT(S)' EXHIBITS:

NIL

// TRUE COPY //

P.A TO JUDGE.