

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 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(Crl.).No. 404 of 2015 (S)

PETITIONER:

**SHIBU, AGED 36 YEARS,
S/O. LATE M.BABU, KRISHNA VILASOM,
KOCHADAPPUPARA, KARUMANKODE P.O.,
PACHA, PALODE, TRIVANDRUM.**

**BY ADVS.SRI.G.RANJU MOHAN
SMT.M.SANTHI**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
HOME AFFAIRS, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE SUPERINTENDENT OF POLICE ,
THIRUVANANTHAPURAM DISTRICT - 695 001.**
- 3. THE SUB INSPECTOR OF POLICE,
NEYYATTINKARA POLICE STATION,
THIRUVANANTHAPURAM - 695 001.**
- 4. JOHN, PRAMEELA MANDIRAM,
ARUVIPPURAM, PERUMPAZHUTHOOR,
NEYYATTINKARA - 695 121.**
- 5. PRAMEELA JOHN, PRAMEELA MANDIRAM,
ARUVIPPURAM, PERUMPAZHUTHOOR,
NEYYATTINKARA - 695 121.**

**R1 TO R3 BY SPECIAL GOVT. PLEADER(WOMEN & CHILDREN)
SMT.SREELATHA PARAMESWARAN**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 05-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(Crl.).No. 404 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1 : TRUE COPY OF THE MARRIAGE CERTIFICATE.

P2 : TRUE COPY OF THE COMPLAINT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

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

WP(CrI).No. 404 of 2015

Dated this the 5th day of October, 2015

JUDGMENT

Abdul Rehim,J.

The petitioner is approaching this court seeking a writ of habeas corpus for directing production of the corpus of the alleged detenu Tessy John, aged 26 years, based on an allegation that she is being illegally detained by respondents 4 and 5 and her other family members.

2. Averments in the writ petition is to the effect that, a marriage between the petitioner and the alleged detenu was solemnised under the Special Marriage Act before the Marriage Officer, Kallara on 19.10.2013. Ext. P1 is the 'Marriage Certificate' produced. After the marriage they were living together as husband and wife at the petitioner's house . Initially the parents of the petitioner were against the relationship. But later the petitioner's mother had agreed to accept the alleged detenu as her daughter-in-law, whereas parents of the alleged

detenu continued with their resistance. But, on 13.9.2015 respondents 4 and 5 had invited the alleged detenu and the petitioner for a compromise talk. But they detained the alleged detenu in her parental house in a manner preventing her from any contact with the petitioner. Having found that the alleged detenu is illegally detained against her free will, the petitioner had submitted Ext.P2 complaint before the 3rd respondent. Alleging that no action was taken on the basis of Ext.P2 complaint to release the alleged detenu from the illegal confinement and also alleging that illegal detention is continuing, this writ petition is filed.

3. When the case came up for consideration on 23.9.2015 this court directed the Government Pleader to get instructions from respondents 1 to 3 . On 28.9.2015 when the case is taken up for consideration, the 3rd respondent had produced a statement of the alleged detenu recorded through a woman police officer deputed for the said purpose. In the statement of the alleged detenu it is admitted that a marriage was solemnised under the Special Marriage Act on 19.10.2013. It is mentioned that during all week days she was staying along with

the petitioner at a rental house at Thriruvananthapuram. When the parents compelled the alleged detenu for marriage with another person, she had revealed about the marriage solemnised. Thereafter, since 13.9.2013 onwards, she was kept under illegal detention without allowing her to go for job. However, she conceded that the parents have not inflicted any torture and that she will be going to attend her job from 28.9.2015 onwards .

4. Having considered the statement of the detenu, this court felt that direct interaction with the alleged detenu is necessary in order to ascertain her wish and will. Therefore this court had issued notice to respondents 4 and 5 and directed them to produce the alleged detenu before this court. Today when the case is taken up, the alleged detenu appeared along with the 5th respondent. When we interacted with the alleged detenu she said that she was living along with the petitioner as husband and wife since their date of marriage on 19.10.2013 onwards. It is specifically stated that on 13.9.2015 onwards respondents 4 and 5 had detained her in the parental house, without permitting her to go to job. The mobile phone used by

the alleged detenu was forcefully taken by the 4th respondent, is the allegation. However, it is admitted that on 2.10.2015 onwards she had resumed to attend her job. But she was not permitted to use any mobile phone or to meet the petitioner in any manner. She expressed her strong desire to go along with the petitioner and to live with him on the basis of the marriage already solemnised. When we interacted with the 5th respondent it is said that respondents 4 and 5 are not in any manner willing to accept the relationship, because the petitioner belongs to a different religion and that the petitioner is not having any proper residence or any means to protect the alleged detenu. From the circumstances as narrated above, this court is convinced that respondents 4 and 5 are confining the alleged detenu against her free will, without permitting her to have residence with the petitioner on the basis of a legal marriage established.

5. Under such circumstances, this court feels it is only just and proper to order release of the alleged detenu from the illegal confinement of respondents 4 and 5. Hence the writ petition is hereby disposed of by setting the alleged detenu at liberty to go along with the petitioner to lead a matrimonial life with him on

the basis of the valid marriage established between them under the Special Marriage Act. Hence the alleged detenu is set at liberty to go along with the petitioner herein.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/

