

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(Crl.).No. 415 of 2015 (S)

PETITIONER(S):

D.AJAYAN, AGED 24 YEARS
S/O.DEVADAS, VADAKARA VEEDU, NADOORKOLLA
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY ADV. SRI.R.GOPAN

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
2. SUPERINTENDENT OF POLICE (RURAL),
THIRUVANANTHAPURAM DISTRICT - 695 001.
3. DEPUTY SUPERINTENDENT OF POLICE,
NEYYATTINKARA
THIRUVANANTHAPURAM DISTRICT - 695 001.
4. SUB INSPECTOR OF POLICE,
PARASSALA - 695 001.
5. KARUNAKARAN,
KARUNA NIVAS, NADIYANCODE
THIRUVANANTHAPURAM - 695 001.

R1-R4 BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION
R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 415 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: PHOTOCOPY OF THE MESSAGE DATED 27.9.2015 SENT BY THE
DETENUE TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

PS TO JUDGE

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

WP(Crl) No. 415 of 2015

Dated this the 17th day of November, 2015

JUDGMENT

Abdul Rehim,J.

The petitioner is approaching this court raising allegations that a girl named Aparna, with whom the petitioner is in love since the last 7 years, is being illegally detained by the 5th respondent, who is her father. It is stated that the petitioner and the alleged detenu have decided to marry and to live together as husband and wife, and on that basis they lived together at the petitioner's house from 26.9.2015 onwards. But on the next day, at the request of the 4th respondent, both of them have to appear before the 4th respondent. The 5th respondent had undertaken to conduct a customary marriage within 3 months and on that basis Aparna was sent along with him. But against the promise made, the 5th respondent is inflicting torture on the alleged detenu and she is being illegally confined against her free will, is the allegation. Therefore the petitioner is approaching this court

seeking a writ of habeas corpus for commanding the respondents to produce the corpus of the alleged detenu and to set her liberty.

2. When the case came up for admission on 1.10.2015 we directed the 4th respondent to conduct a discrete enquiry into the allegations of illegal detention. An independent statement of the alleged detenu was directed to be recorded. Accordingly a statement recorded from the alleged detenu was produced before this court on 9.10.2015. On a perusal of the statement we have decided to issue notice to the 5th respondent, directing for production of the alleged detenu, because it is felt that a direct interaction with the alleged detenu is required in order to decide as to whether she is under illegal confinement or not.

3. Accordingly the alleged detenu was produced before this court on 15.10.2015. When we interacted, she expressed her strong determination to marry the petitioner. She admitted that she had left the parental house along with the petitioner on 26.9.2015. But she was taken back to the parental house from the police station on 27.9.2015 on the basis of a promise made by the 5th respondent to arrange solemnisation of the marriage

with the petitioner, within a period of 3 months. But she complained of having tortured by the 5th respondent and other family members. She expressed her strong desire to go along with the petitioner and to solemnise a customary marriage. She expressed her strong unwillingness to go along with the 5th respondent. When we interacted with the 5th respondent, who was personally present before this court, he expressed the view that if the alleged detenu is adamant, she can be let free to take her own decision. But he made a request to this court to make sure that a valid marriage is established between the petitioner and the alleged detenu. The petitioner submitted that he is ready and willing to perform a customary marriage under provisions of the Hindu Marriage Act and also to get the marriage registered under the Kerala Registration of Marriages (Common) Rules 2008. Accordingly we permitted the alleged detenu to go along with the petitioner, for solemnisation of a customary marriage. The petitioner was directed to produce the proof regarding the marriage solemnised.

4. Today when the case is taken up, learned counsel appearing for the petitioner had produced copy of a certificate

issued from SNDP Branch No.811, Neyyattinkara, dt. 18.10.2015. The certificate would indicate that the marriage between the petitioner and the alleged detenu had taken place on 18.10.2015 at the SNDP Hall, and the marriage has been duly entered in the register kept by the 'SNDP Sakha'. Original of the 'Certificate of Marriage' issued under the Kerala Registration of Marriages (Common) Rules, 2008 is also produced for our perusal. It is evident that the marriage solemnised at the SNDP Hall on 18.10.2015 was got registered with the Local Registrar, Neyyattinkara Municipality on 12.11.2015. A photograph taken at the time of the marriage was also produced for our perusal.

5. From the facts enumerated as above, it is evident that a valid marriage has been established between the petitioner and the alleged detenu. It is evident that the alleged detenu is now leading a marital life with the petitioner on the basis of the marriage established. Therefore there exists no circumstance for interference of this court to issue a writ of habeas corpus, on the basis that the alleged detenu is under illegal confinement.

6. Hence the above writ petition is hereby disposed of by setting the alleged detenu at liberty to live along with the

petitioner as husband and wife on the basis of the valid marriage established.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/