

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WP(Crl.).No. 422 of 2015 (S)

PETITIONER:

SHAILA, AGED 47 YEARS,
W/O.IBRAHIM, THARUPEEDIKAYIL HOUSE,
KANNIKULANGARA DESOM, PUTHENCHIRA VILLAGE
PUTHENCHIRA P.O., THRISSUR DISTRICT, PIN - 680 682.

BY ADVS.SRI.K.J.MOHAMMED ANZAR
SMT.P.R.SOPHIYA
SRI.DILEEP D BHAT

RESPONDENTS:

1. THE DISTRICT POLICE CHIEF & SUPERINTENDENT OF POLICE
THRISSUR (RURAL), CIVIL STATION, AYYANTHOLE
THRISSUR. PIN - 680 003.

2. THE INSPECTOR OF POLICE, MALA POLICE STATION
MALA P.O. THRISSUR DISTRICT, PIN - 680 732.

3. THE STATION HOUSE OFFICER, MALA POLICE STATION
MALA P.O., THRISSUR DISTRICT, PIN - 680 732.

4. SHAROON
S/O.PADMANABHAN, KOMBIDINJAMAKKAL, ALOOR VILLAGE
ALUR P.O., THRISSUR DISTRICT, PIN - 680 683.

R1 TO 3 BY SRI. SHIBU JOSEPH - SR.G.P.WITH
SRI. TOM JOSE PADINJAREKKARA -
ADDL.DIRECTOR GENERAL OF PROSECUTION

R4 BY ADV. SMT.I.SHEELA DEVI

R4 BY ADV. SRI.BINESH.K.N.

R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P-1: TRUE COPY OF THE COMPLAINT DATED 4.10.2015 SUBMITTED BY THE
PETITIONER TO THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R4 (A) TRUE COPY OF THE RECEIPT NO.AW0494291 DATED 13.10.2015

EXT.R4 (B) TRUE COPY OF THE NOTICE DATED 13.10.2015.

EXT.R4 (C) TRUE COPY OF MARRIAGE CERTIFICATE ISSUED BY THE SRO,
KALLETUMKARA.

/TRUE COPY/

P.S TO JUDGE

C.K. ABDUL REHIM & K. RAMAKRISHNAN, JJ.

.....
W.P.(Crl)No.422 of 2015

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Dated this the 30th day of November, 2015

JUDGMENT

Abdul Rehim, J:

The petitioner is seeking a writ of habeas corpus for directing production of corpus of her daughter, Miss.Thasni and to set her at liberty, based on an allegation that she is being illegally confined by the 4th respondent.

2. Averments are to the effect that, the petitioner's daughter (hereinafter referred to as 'the alleged detenu') is missing since 3.10.2015 onwards from a Hostel where she was staying at Thrissur. On 4.10.2015 the petitioner had received a telephone call from a person introduced as the 4th respondent, informing that the alleged detenu is with him. It was informed that they were in love and have decided to live together. The petitioner had lodged a complaint before the 3rd respondent with respect to missing of the alleged detenu and complaining that the 4th respondent is illegally confining her against her free will. But expressing grievance regarding inaction on the part of the 3rd respondent and raising allegation that the alleged detenu is being illegally detained against her free will, the

petitioner is approaching this court.

3. Pursuant to notice issued from this court, the 4th respondent had produced the alleged detenue on 9.10.2015. It was revealed by the 3rd respondent that the alleged detenue had surrendered before the Judicial First Class Magistrate Court, Chalakudy on 7.10.2015 in the missing case registered as Crime No.1181/2015 of Mala police station, and the Magistrate had set her at liberty, after recording her statement.

4. When we interacted with the alleged detenue, she said that she was in love with the 4th respondent since last more than 4 ½ years. After eloping with the 4th respondent, a marriage was solemnized at Sree Narayana Paripalana Yogam on 16.10.2015. She expressed her desire to go along with the 4th respondent. Based on the information that the alleged detenue and the 4th respondent have decided to solemnize their marriage under the Special Marriage Act, the petitioner informed this court that she will not stand in the way, if the alleged detenue is adamant in her stand. But she requested this court to ensure that a valid marriage is established between the alleged deteneu and the 4th respondent, for which she had expressed her willingness to hand over any requisite proof of identity of

the alleged detainee. Under the above mentioned circumstances, the alleged detainee was permitted to go along with the 4th respondent and the 4th respondent was directed to solemnize the marriage under the Special Marriage Act and to produce the proof regarding the same before this Court.

5. Subsequently the case was adjourned on the basis of proof produced by the 4th respondent to the effect that a notice of intended marriage has already been submitted before the Marriage Officer, Kallettumkara. Thereafter it was informed that the marriage was solemnized under the Special Marriage Act on 21.11.2015.

6. Today when the case is taken up, the 4th respondent had produced copy of the 'Marriage Certificate' along with I.A.No.17318/2015. It would indicate that a marriage under the Special Marriage Act was solemnized between the alleged detainee and the 4th respondent on 21.11.2015, before the Marriage Officer, Kallettumkara. This court takes on record the valid marriage established between the 4th respondent and the alleged detainee. It is submitted that both of them are living together as husband and wife in the house of the 4th respondent.

7. Under the above mentioned circumstances, this court is convinced that there exists no illegal confinement of the alleged detenue, at present. Hence the alleged detenue is set at liberty to live along with the 4th respondent as husband and wife, based on the valid marriage established.

This writ petition is disposed of accordingly.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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