

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 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(Crl.).No. 424 of 2015 (S)

PETITIONER(S):

CHELLAPPAN PILLAI AGED 58 YEARS
S/O.NEELAKANDAN PILLAI, LEELA MANDIRAM, NEELESWARAM PO
NEDUVATHUR VILLAGE, KOTTARAKKARA TALUK, KOLLAM

BY ADVS.SRI.B.MOHANLAL
SRI.A.SANIL KUMAR

RESPONDENT(S):

1. THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, VAZHUTHACAUD PO
THIRUVANANTHAPURAM, PIN 695014
2. THE COMMISSIONER OF POLICE
KOLLAM CITY, KOLLAM 691001
3. THE CIRCLE INSPECTOR OF POLICE
KOTTARAKKARA, KOTTARAKKARA PO, KOLLAM
PIN 691506
4. THE CIRCLE INSPECTOR OF POLICE
PUNALUR, PUNALUR PO, KOLLAM
PIN 691305
5. THE STATION HOUSE OFFICER
KOTTARAKKARA POLICE STATION, KOTTARAKKARA PO, KOLLAM
PIN 691506
6. THE SUPERINTENANT
MAHILA MANDIRAM, MULAMKADAKAM, KOLLAM 691012

WP(Crl.).No. 424 of 2015 (S)

7. SRI. GANESH

GANESH BHAVAN, CHEPRA, UMMANNOR PO
KOTTARAKKARA, KOLLAM, PIN 691547

R7 BY ADV. SRI.AJAYA KUMAR. G

BY GOVERNMENT PLEADER SRI. EGGY. N.ELIAS

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 424 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:TRUE COPY OF THE FIR AND FIS IN CRIME NO.2409/2015 OF
KOTTARAKKARA POLICE STATION

P2:TRUE COPY OF THE OFFICIAL MEMORANDUM DATED 01.10.2015 ISSUED BY
THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, KOTTARAKKARA

P3:TRUE COPY OF THE ORDER IN CMP.NO.5710/2015 OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT I, KOTTARAKKARA

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

PS TO JUDGE

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

WP(CrI) No. 424 of 2015

Dated this the 18th day of November, 2015

JUDGMENT

Abdul Rehim,J.

The petitioner is approaching this court seeking a writ of habeas corpus for directing production of his daughter Miss. Parvathi, and to set her at liberty from the alleged illegal and unlawful detention of the 7th respondent.

2. Averments in the writ petition are that, the petitioner's daughter (the alleged detenu) was studying in her 5th Semester of B.Com Degree at Marthoma College of Engineering at Ayur, Kollam. She had not returned back from the college on 29.9.2015. Enquiries made by the petitioner revealed that the 7th respondent had kidnapped and abducted her from the college. Based on a complaint lodged by the petitioner, the 5th respondent had registered a case with respect to missing of the petitioner's daughter. It is alleged that the 7th respondent is a habitual offender who had abducted other girls from the locality

and he is not a person of good character and antecedents. It is also stated that, based on the crime registered, the alleged detenu along with the 7th respondent appeared before the Judicial First Class Magistrate Court-I Kottarakkara on 1.10.2015 and the learned Magistrate had directed the 6th respondent to accommodate the alleged detenu at the 'Mahila Mandiram' at Kollam. Thereafter she was produced before the Magistrate on 5.10.2015. It was informed before the Magistrate that a writ petition is intended to be filed before this court seeking custody of the alleged detenu. A certificate issued by a psychiatrist attached to the District Hospital, Kollam, with respect to examination of the alleged detenu was also produced before the Magistrate Court. Hence the Magistrate issued further orders directing to keep the alleged detenu at the 'Mahila Mandiram' itself, for the purpose of production before this court. Based on specific allegations that the alleged detenu is under illegal confinement of the 7th respondent against her will, this writ petition is filed.

3. When the writ petition came up for admission, this court directed the 5th respondent to produce the alleged detenu before

this court. On 13.10.2015 the alleged detenu was produced before this court. When we interacted, she said that she was in love with the 7th respondent since the last 3 years. According to her, she had left the parental house on 29.9.2015 along with the 7th respondent and was residing in the house of the sister of the 7th respondent. She said that she was taken into custody by her parents on 1.10. 2015 when she came to Kollam along with the 7th respondent for taking steps for solemnisation of their marriage under the Special Marriage Act. The alleged detenu expressed her strong determination to marry the 7th respondent and to lead a life with him. She was not willing to go along with the petitioner to the parental house. She expressed her desire to go along with the 7th respondent.

4. Having considered the fact that there exist no legally valid marriage between the alleged detenu and the 7th respondent we directed the 5th respondent to take the alleged detenu and to admit her at the 'NSS Union Working Womens Hostel', Kottarakkara. The 7th respondent was directed to make arrangement for solemnisation of the marriage under the Special Marriage Act by giving the notice of intended marriage to the

Marriage Officer having jurisdiction. The acknowledgement for submission of such application was directed to be produced before this court.

5. Thereafter on 20.10.2015 this court permitted the alleged detenu to appear before the Marriage Officer for solemnisation of the marriage, on the basis of proof produced regarding submission of the notice of intended marriage on 14.10.2015. The 5th respondent was directed to make necessary arrangements for taking the alleged detenu for the purpose of solemnisation of the marriage on 16.11.2015. The parties were directed to produce the marriage certificate, after solemnisation of the marriage.

6. Today when the case is taken up for consideration, the 7th respondent had produced copy of the Marriage Certificate along with a memo filed. Copy of the Marriage Certificate would indicate that a valid marriage has been solemnised under the Special Marriage Act between the alleged detenu and the 7th respondent on 16.11.2015. This court takes on record the valid marriage established between the alleged detenu and the 7th respondent. Both the alleged detenu and the 7th respondent are

personally present before this court. They said that they are intending to live together in the house of the 7th respondent under the marital tie. Under the above mentioned circumstances we are convinced that the alleged detenu is not under any illegal confinement, at present.

7. Hence the above writ petition is hereby disposed of by setting the alleged detenu at liberty to go along with the 7th respondent to lead a marital life with him on the basis of the legally valid marriage established.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/

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

WP(Crl) No. 424 of 2015

Dated this the 20th day of October, 2015

ORDER

Abdul Rehim,J.

On the basis of the order passed by this court on 13.10.2015, the 7th respondent had produced proof regarding submission of the notice of intended marriage before the Marriage Officer, Oyur, on 14.10.2015. It is submitted that the marriage can be solemnised on completion of 30 days thereof. Learned counsel also submitted that, for the purpose of solemnisation of the marriage the alleged detenu need to produce her school leaving certificate. Therefore it is requested that the alleged detenu may be permitted to approach the school authorities for getting the requisite certificate.

2. Under the above mentioned circumstances the alleged

detenu is permitted to appear before the Sub Registrar Office, Oyur for solemnisation of the marriage, on 16.11.2015. A woman police officer shall be deputed to accompany her from the hostel to the Sub Registrar office and back. She shall be admitted back to the hostel on the very same day. Before the said date, the hostel authorities shall permit the alleged detenu to go to the school for obtaining necessary certificate from the school where she had studied, for the purpose of producing before the Marriage Officer. Under any circumstance the alleged detenu shall not stay away from the hostel during night time.

Post on 18.11.2015 for production of the marriage certificate. The alleged detenu shall be produced before this court on that day. The 7th respondent shall also be present before this court.

C.K.ABDUL REHIM, JUDGE

MARY JOSEPH, JUDGE

Pmn/