

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(Crl.).No. 426 of 2015 (S)

PETITIONER(S) :

AROMAL AGED 25 YEARS
S/O.VYOMAKESAN, PRANAVAM, KILIMANOOR
VELLALLOOR P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT(S) :

1. THE INSPECTOR OF POLICE,
KILIMANOOR CIRCLE, THIRUVANANTHAPURAM DISTRICT
PIN-695 601.

2. THE SUB INSPECTOR OF POLICE,
KILIMANOOR POLICE STATION
THIRUVANANTHAPURAM DISTRICT, PIN-695 601.

3. A.DAVOOD
JEMESHY MANZIL, VALUPACHA, THALIKUZHI P.O.
THIRUVANANTHAPURAM DISTRICT, PIN-695 612.

4. JUMAILA BEEVI.N.
JEMSHY MANZIL, VALUPACHA, THALIKUZHI P.O.
THIRUVANANTHAPURAM DISTRICT, PIN-695 612

R1,R2 BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION
SRI.K.I.ABDUL RASHEED.

R3-R4 BY ADV. SRI.T.M.ABDUL LATHEEF

R3-R4 BY ADV. SRI.A.MOHAMED RASHEED

GOVERNMENT PLEADER SRI.P.S.ABDUL KAREEM.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Cr1.).No. 426 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1.PHOTOCOPY OF THE LETTER ISSUED BY THE MISHRA VIVAHA SAMITHY,
STATE COMMITTEE DATED 18/10/2014 TO THE 1ST RESPONDENT TO GIVE ALL
LEGAL PROTECTION TO THE PETITIONER AND DETENU.

EXT.P2.PHOTOCOPY OF THE CERTIFICATE OF MARRIAGE DATED 23/10/2014 ISSUED
BY THE LOCAL REGISTER, THIRUVANANTHAPURAM CORPORATION.

/TRUE COPY/

P.S. TO JUDGE.

s1.

C.K.Abdul Rehim & Mary Joseph, JJ.

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W.P.(Crl.)No.426 of 2015

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Dated this the 15th day of October, 2015.

JUDGMENT

Abdul Rehim, J.

1. The petitioner is approaching this court seeking for release of the daughter of respondents 3 and 4, namely Ms.Jemshy D.J. from the alleged illegal confinement, by issuing a writ of Habeas Corpus.
2. Averments are to the effect that, the alleged detainee is a classmate of the petitioner in the school at Kilimanoor. Their acquaintance developed into deep love. The petitioner joined Indian Army during 2011 and is presently serving as Lance Naik in Punjab and the alleged detainee had completed her M.B.A. course. The respondents 3 and 4 are against their relationship. Hence the petitioner and the alleged detainee have solemnized a marriage on 18.10.2014 at Navasakthi Mini Office Hall, Vanchiyoor, Thiruvananthapuram at the

auspicious of Mishra Vivaha Samithy, State Committee. It is also stated that the marriage thus solemnized was registered under the Kerala Registration of Marriages (Common) Rules, 2008. Exts.P1 and P2 certificates were produced to prove the above facts. It is alleged that the factum of marriage was suppressed from respondents 3 and 4. But at the same time it is stated that the alleged detainee had joined the petitioner and they co-habitated at the house of the petitioner, after he returned home on 26.9.2015. It is alleged that, while so the respondents 3 and 4 have wrongfully and illegally confined the alleged detainee at their house, without permitting her to contact the petitioner. The petitioner had approached the 2nd respondent seeking necessary action to set her at liberty from the wrongful confinement. But no effective steps were taken in this regard. Under such circumstances, alleging illegal detention of Ms.Jemshy D.J. by her parents, against her free will, this writ petition is filed.

3. Pursuant to notice issued from this court, the respondents 3 and 4 appeared through counsel and produced the alleged detenue before this court, on today. When we interacted the alleged detenue had conceded that the petitioner and herself were classmates and they were in love. The fact regarding solemnization of a marriage under the 'Mishra Vivaha Samithy' is also admitted. However she said that there was no co-habitation or consummation of marriage at any point of time. She said that she is not under any illegal confinement of respondents 3 and 4 as alleged and that she is living with them on her own wish and will. She expressed her desire to go along with respondents 3 and 4 to her parental home. She said that at present she has not taken any decision to continue relationship with the petitioner.
4. Learned counsel for the petitioner contended that there is a valid marriage established based on Exts.P1 and P2 and that the alleged detenue being his wife, he is entitled to have interaction with her and

to take her along with him. For the purpose of a decision in this case, we need not look into the validity of the marriage or its registration. On the other hand, we are convinced that the allegation of illegal detention is totally baseless. Since the alleged detainee is not under any illegal confinement, we find no materials to invoke jurisdiction of this court for issuing any writ of Habeas Corpus. However, the petitioner will be at liberty to seek appropriate remedy, if he has got any claim based on the alleged marriage, to the extent it is legally sustainable.

The writ petition is hereby dismissed subject to the above observation.

C.K.Abdul Rehim, Judge.

Mary Joseph, Judge.

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