

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 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(Crl.).No. 431 of 2015 (S)

PETITIONER(S) :

ABHINAND K.K. AGED 23 YEARS
S/O. NARAYANKUTTY, KIZHAKKE KARAYIL, RAMALLOOR AMSOM
NADUVALLUR DESOM, KAKKUR P.O., KOZHIKODE DISTRICT.

BY ADVS.SRI.P.V.KUNHIKRISHNAN
SRI.G.ANEESH

RESPONDENT(S) :

1. SUB INSPECTOR OF POLICE
VELLAYIL POLICE STATION, KOZHIKODE - 673 011.

2. CIRCLE INSPECTOR OF POLICE
NADAKKAVU POLICE STATION, KOZHIKODE - 673 011.

3. CITY POLICE COMMISSIONER
KOZHIKODE CITY, KOZHIKODE - 673 001.

4. AHAMMED K.P
KUNNUMMAL HOUSE, NADAKKAVU P.O., VELLAYIL
KOZHIKODE - 673 011.

R1-R3 BY ADDL.DIRECTOR GENERAL OF PROSECUTION SRI.TOM JOSE
PADINJAREKKARA.

GOVERNMENT PLEADER SRI.SHIBU JOSEPH.

R4 BY ADV.SRI.K.M.FIROZ.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Cr1.).No. 431 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1 - TRUE COPY OF THE CERTIFICATE DT. 25.7.2015 ISSUED BY THE
BHARATHIYA HINDU SHUDHI SABHA, ARYASAMAJ MANDIR, RAM MOHAN ROAD,
KOZHIKODE.

EXT.P2 - TRUE COPY OF THE CERTIFICATE OF MARRIAGE DT. 25.7.2015 ISSUED
BY THE ARYASAMAJ MANDIR (VEDIC CHURCH), KOZHIKODE.

EXT.P3 - TRUE COPY OF THE RECEIPT DT. 24.8.2015 SHOWING THE
REGISTRATION OF THE MARRIAGE BETWEEN THE PETITIONER AND AMITHA K.P.

EXT.P4 - TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER TO THE 1ST
RESPONDENT DT. 15.9.2015.

EXT.P5 - TRUE COPY OF THE COMPLAINT DT. 10.10.2015 BY THE PETITIONER
BEFORE THE 3RD RESPONDENT.

EXT.P6 - TRUE COPY OF THE RECEIPT NO. 906/PM/CAMP/15 DT. 10.10.2015
ISSUED BY THE 3RD RESPONDENT.

/TRUE COPY/

P.S. TO JUDGE.

s1.

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

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W.P.(Crl.)No.431 of 2015

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Dated this the 26th day of October, 2015.

JUDGMENT

Abdul Rehim, J.

1. The petitioner is seeking a writ of Habeas Corpus for directing production of the corpus of Ms.Amitha K.P., daughter of the 4th respondent, and to set her at liberty, based on the allegations that she is being illegally confined by the 4th respondent and her family members as against her free will.
2. Averments are to the effect that, the petitioner and the alleged detainee were studying together for Nursing Course and they were in deep love. They decided to marry each other, when both of them got job as Staff Nurse at different hospitals in Kozhikode. It is alleged that the detainee had converted her

religion at the 'Arya Samaj Mandir' for which she had undergone rituals at the 'Bharathiya Hindu Shudhi Sabha', Kozhikode and a customary marriage between them was solemnized on the same day at the 'Arya Samaj Mandir'. Exts.P1 and P2 certificates are produced in order to prove the above said facts. It is also said that an application for registration of the marriage was submitted under the Kerala Registration of Marriages (Common) Rules, 2008 before the Municipal Corporation, Kozhikode. Ext.P3 is the receipt evidencing submission of such an application. According to the petitioner, the alleged detainee went to her house after the marriage. But the 4th respondent and other family members have wrongfully confined her against her free will, without allowing her to contact the petitioner or without allowing her to go out of the house. It is stated that the alleged detainee is confined in a room in the house of the 4th respondent. The petitioner also alleges that there were frequent threat to him

from the side of the 4th respondent and his relatives. Even though the petitioner submitted complaints before respondents 1 to 3, no effective steps were taken to release the alleged detainee. Under such circumstances, based on the allegation of illegal detention, this writ petition is filed.

3. When the case came up for admission on 12.10.2015, this court directed the 1st respondent to conduct a discreet enquiry into the alleged detention and also to get an independent statement of the alleged detainee recorded, by deputing a woman police officer. It was specifically directed that such statement should be recorded not in the presence of the 4th respondent, his family members or others. A statement of the alleged detainee recorded as directed was produced before this court on 16.10.2015. On a perusal of the said statement, this court was of the opinion that a direct interaction with the alleged detainee is necessary to ascertain the exact position regarding the allegation of detention. Hence

notice was issued to the 4th respondent directing him for production of the alleged detainee.

4. Today when the case is taken up for consideration, the 4th respondent appeared and produced the alleged detainee before this court. When we interacted, the alleged detainee had conceded about the customary marriage solemnized at the 'Arya Samaj Mandir', Kozhikode. But she had emphatically denied the allegation of illegal confinement. According to her, she is now staying in her parental house on her own wish and will. It is stated that she has not taken any decision to continue the relationship with the petitioner. Learned counsel for the 4th respondent submitted that the alleged detainee had already filed O.A.No.887 of 2015 before the Family Court, Kozhikode seeking to nullify the marriage took place at the 'Arya Samaj Mandir', Kozhikode.

5. Under the above mentioned circumstances, this court is of the

considered opinion that there is no basis for the allegation of illegal confinement. We are convinced that the alleged detainee is not under any illegal confinement of the 4th respondent or her family members as alleged. Hence there exists no circumstances warranting issuance of any writ of Habeas Corpus, in exercise of power vested under Article 226 of the Constitution of India.

Therefore the above writ petition is hereby dismissed. The alleged detainee is set at liberty to go along with the 4th respondent, as desired by her. It is made clear that the parties will be at liberty to settle the disputes if any pertaining to the alleged marriage, in appropriate proceedings.

C.K.Abdul Rehim, Judge.

Mary Joseph, Judge.