

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 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(Crl.).No. 432 of 2015 (S)

PETITIONER:

PAVISH,
AGED 20 YEARS, S/O. KUSHALAN,
MANIYANKANA HOUSE,
PARAVANADKAM P.O., KASARAGOD.

BY ADV. SRI.V.TEKCHAND

RESPONDENTS:

1. RAMESHAN,
ATHIKOTH, UNNIPEDIKA, MAVUNKAL,
ANANTHASRAM P.O, HOSDURG, KASARAGOD - 671 531.
2. LATHA RAMESHAN,
W/O. RAMESHAN, ATHIKOTH, UNNIPEDIKA
MAVUNKAL, ANANTHASRAM P.O., KASARAGOD- 671 531.
3. DISTRICT SUPERINTENDENT OF POLICE,
KASARAGOD - 671 121.
4. THE SUB INSPECTOR OF POLICE,
HOSDURG POLICE STATION,
KASARAGOD,PIN - 671 531.

R3 & R4 BY ADV. SMT. SREELATHA PARAMESWARAN, (SPL. G.P. FOR
WOMEN AND CHILDREN)

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**C.K. ABDUL REHIM, J.
&
MARY JOSEPH, J.**

W.P (Crl.) No. 432 OF 2015

DATED THIS THE 20th DAY OF OCTOBER, 2015

J U D G M E N T

Mary Joseph, J:

The petitioner has approached this court seeking issuance of a writ of Habeas Corpus on the allegation that Miss.Megha with whom he was in affair was under the illegal detention of the 1st & 2nd respondent who were none other than the parents of the girl.

2. The facts of the writ petition in short are as follows:-

The petitioner and the alleged detainee Miss.Megha were schoolmates and also members of National Cadet Corps. Their friendship blossomed into deep love and ultimately they decided to solemnise their marriage.

3. About 2 years back the parents of the alleged detainee got the information of their affair and she was questioned by them. The alleged detainee informed her

parents about the decision taken by them to solemnise the marriage and thereupon they resisted the same on the reason that the petitioner belongs to a lower caste. When the petitioner informed the 1st and 2nd respondents about his firm desire to maintain the relationship with the alleged detainee, he was physically assaulted by the 1st and 2nd respondents. Since the 1st and 2nd respondents had the backing of a prominent trade union and the uncle of the detainee being a trade union leader at Kasaragod District, the petitioner abstained from preferring any complaint against them. In the meanwhile, the alleged detainee informed the petitioner that her parents are taking urgent measures to give her in marriage to some other person. On 18-09-2015, the alleged detainee rang up the petitioner over phone and informed him that she has abandoned her parental home and has reached her college. The petitioner rushed to the place to enquire about the reason for her abandoning the house, the alleged detainee informed him that she cannot any longer withstand the mental and

physical torture of her parents based on her adamant stand in the matter of continuation of her relationship with the petitioner. In such a circumstance, the petitioner after informing his parents took the alleged detainee to his friend's house at Mangalore. In the meanwhile, the petitioner got information from the Hosdurg police station that the 1st respondent had filed a complaint there and based on that a crime was registered as Crime No.846/2015 under Section 57 of the Kerala Police Act. By then the 1st & 2nd respondent and their relatives contacted the petitioner's family and informed them that the marriage of the detainee would be conducted by them if they return to their native place. Accordingly they returned to their native place in the evening of 22-09-2015 to appear before the Hosdurg police station on the succeeding day since the crime was registered there. The detainee stayed at a relative's house and the petitioner stayed at his own house. But the police visited the place where the alleged detainee was housed and took her alongwith them. The petitioner was also taken

along with, but, was sent back with a direction to appear at the police station on 25-09-2015. Accordingly, the petitioner appeared at the police station and himself along with the alleged detainee were taken to the jurisdictional magistrate. The statement of the alleged detainee was recorded by the learned Magistrate and she was sent along with her parents to her parental home. Things remaining so, on a fine day, a friend of the alleged detainee informed the petitioner that the latter has been taken to an unknown place and that her life is in danger. It is also informed that she may resort to any measures to end her life. The petitioner tried to contact the alleged detainee, but his efforts turned futile. In such a circumstance, under the apprehension that the alleged detainee's life would be endangered and finding no other way to get her whereabouts that the petitioner has approached this court seeking the exercise of writ jurisdiction to rescue her from the place where she was illegally confined by her parents.

4. On the date when the writ petition came up for admission, the learned Government Pleader entered appearance for respondents 3 & 4. Direction was issued to the 4th respondent to conduct a discreet enquiry regarding the allegation in the Writ petition about the illegal detention of the alleged detainee by the 1st and 2nd respondents. Direction was also issued to the 4th respondent to depute a woman police constable, not in uniform to record an independent statement of the alleged detainee out of the presence of any of her family members.

5. In compliance with the directions, the 4th respondent has forwarded a report through the learned Government Pleader and it was placed for our perusal.

6. We have gone through the statement of the alleged detainee. Admittedly of the lady, she has voluntarily left her house on 18-05-2015 at 8 a.m and eloped with the petitioner. Thereafter she had stayed in the house of one lady named Rajeevi at a place called Majul within the jurisdictional limits of Kasaragod police station. The

Hosdurg police reached the place and took her in custody therefrom. On 23-09-2015 at 8 a.m. she was subjected to medical examination and produced before the Judicial First Class Magistrate-I, Hosdurg. Her statement was recorded by the Judicial First Class Magistrate-I, Hosdurg. She has given statement to the effect that she left her parental home and eloped with the petitioner on her own will and pleasure. It is also stated by her that she was not kidnapped by the petitioner or any other person. Based on the disclosure of her desire that she intends to go along with her father the learned Magistrate permitted her to go along with the 1st respondent. It is stoutly stated by her that she is not desirous of marrying the petitioner at present. According to her she was not under the illegal detention or confinement of the 1st and 2nd respondents and was enjoying her life in the company of her parents at her parental house freely and independently. The alleged detenue has also expressed her desire to continue her education and marry a person at the choice of her parents.

7. In view of the statement of the alleged detenue that she was not under illegal detention of the 1st and 2nd respondents, we could not see any merits in the contentions raised by the petitioner in the writ petition. There is absolutely no reason for us to proceed with the matter any further.

In the result the writ petition is dismissed.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

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True copy

P.A. to Judge