

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 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(Crl.).No. 438 of 2015 (S)

PETITIONER:

**C.K. RAJU,
AGED 50 YEARS, S/O. KRISHNAN,
KIZHAKKEMADAM, MANNAM PO
NORTH PARAVUR.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
HOME DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. STATE POLICE CHIEF
OFFICE OF THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM-695 001.**
- 3. SUPERINTENDENT OF POLICE (RURAL)
OFFICE OF THE SUPERINTENDENT OF POLICE
ALUVA-683 101.**
- 4. CIRCLE INSPECTOR OF POLICE
OFFICE OF THE CIRCLE INSPECTOR OF POLICE
NORTH PARAVUR POLICE STATION, ERNAKULAM-683 513.**
- 5. SUB INSPECTOR OF POLICE
NORTH PARAVUR POLICE STATION
ERNAKULAM-683 513 (CRIME NO. UNKNOWN OF
NORTH PARAVUR POLICE STATION
ERNAKULAM DISTRICT)**

6. NOUSHIK NOUSHAD
S/O.NOUSHAD, MALIKKETTIL HOUSE, MADAVANA
ATHANI, KODUNGALLUR, THRISSUR DISTRICT-683 516

7. ASHKAR
MALIKKETTIL HOUSE, MADAVANA, ATHANI
KODUNGALLUR, THRISSUR DISTRICT-683 516

8. SADIK
S/O.NOUSHAD, MALIKKETTIL HOUSE, MADAVANA
ATHANI, KODUNGALLUR, THRISSUR DISTRICT-683 516

R6,R7,R8 BY ADV. SRI.P.V.JEEVESH
R6,R7,R8 BY ADV. SRI.K.V.REJANISH
R8 BY ADV. SRI.K.DAMODARA KURUP
R6,R7,R8 BY ADV. SRI.A.S.DHEERAJ
R1 TO R5 BY GOVERNMENT PLEADER SRI. EGGY N. ELIAS

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMG

WP(Crl.).No. 438 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS

**P1 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE
THE NORTH PARAVUR POLICE DT 14-10-2015.**

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

W.P (Crl.) No. 438 OF 2015

DATED THIS THE 17th DAY OF NOVEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner has approached this court seeking a writ of Habeas Corpus for directing production of the corpus of his daughter, Miss.Shilpa, aged 20 years, and to set her at liberty, based on an allegation that she is being illegally confined by the respondents 6 to 8 against her free will.

2. Averments in the writ petition are to the effect that, the daughter of the petitioner (the alleged detainee) was studying for final year BCA course in Amrita Institute at Edapally and she was residing in the parental house. After she went to the college on 14-10-2015 she has not returned. On enquiry conducted it came to the knowledge of the petitioner that she used to contact the 6th respondent over mobile phone. Despite all attempts made by the petitioner, he could not trace out the missing girl. Therefore he had lodged Ext.P1 complaint before the 4th respondent about the missing of his daughter. But, alleging that

the police authorities are not taking any effective steps to trace out his daughter and also alleging that she is being illegally detained against her free will, the above writ petition is filed.

3. Pursuant to notice issued from this court the respondents 6 to 8 appeared and produced the alleged detainee before this court on 20-10-2015. When we interacted the alleged detainee expressed her strong determination to marry the 6th respondent, with whom it is stated that she is in love since the last 7 years. It is stated that a notice of the intended marriage was already submitted for solemnizing a marriage under the Special Marriage Act, before the Marriage Officer, Kodungallur, on 12-10-2015 by the 6th respondent and the alleged detainee. She conceded that she is living with the 6th respondent from 14-10-2015 onwards. She expressed her desire to go along with the 6th respondent on the basis that the marriage will be solemnized on completion of the statutory period. However, she expressed strong unwillingness to go along with the petitioner.

4. Since we noticed that there is no legally valid marriage established between the alleged detainee and the 6th respondent, we directed the 5th respondent to admit the alleged detainee at a hostel at Ernakulam, at the expense of the 6th respondent. The alleged detainee was permitted to appear before

the Marriage Officer for solemnization of the marriage based on the notice of intended marriage, already submitted on 12-10-2015. The 5th respondent was directed to make arrangements for taking the alleged detainee to the Marriage Officer for solemnization of the marriage. The case was adjourned thereafter for production of the Marriage Certificate.

5. Today when the case is taken up for consideration, the counsel appearing for the 6th respondent had produced the 'Certificate of Marriage', for perusal of this court. The 'Marriage Certificate' produced would indicate that a valid marriage has been solemnized between the alleged detainee and the 6th respondent under the Special Marriage Act, on 13-11-2015.

6. Under the above mentioned circumstances this court takes on record the valid marriage established between the alleged detainee and the 6th respondent. Both of them are personally present before this court. It is said that they are going to lead a marital life at the residence of the 6th respondent. This court is convinced that the alleged detainee is not under any illegal confinement and that she had expressed her desire to lead a life with the 6th respondent as husband and wife, on the basis of the valid marriage established.

7. Therefore the above writ petition is hereby disposed of by setting the alleged detinue at liberty to go along with the 6th respondent to lead a marital life as desired by her, on the basis of the valid marriage established.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

AMG

True copy

P.A. to Judge