

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 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(Cr1.).No. 443 of 2015 (S)

PETITIONER(S) :

SHIBIN JOSEPH, AGED 24 YEARS,
S/O.JOSEPH P.S, PUNJEPPADY HOUSE, NEERKODE P.O
KODUVANZHANGA, ALANGODE, ERNAKULAM 683511

BY ADVS.SRI.G.RANJU MOHAN
SMT.M.SANTHI (K/868/2011)

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY SECRETARY, HOME AFFAIRS,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.

2. THE SUPERINTENDENT OF POLICE,
ERNAKULAM DISTRICT 682 011

3. THE SUB INSPECTOR OF POLICE
THRIKKAKARA POLICE STATION, ERNAKULAM 682 021

4. NAZAR
CHATHANVERIMUKAL, NGO QUARTERS, KAKKANAD
THRIKKAKARA P.O, KOCHI 21

5. SHAKEENA,
CHATHANVERIMUKAL, NGO QUARTERS, KAKKANAD
THRIKKAKARA P.O, KOCHI 21

DETENUE

1. SHIFANA, AGED 19 YEARS
D/O. NAZAR, CHATHANVERIMUKAL, NGO QUARTERS
KAKKANAD, THRIKKAKARA P.O, KOCHI 21

R1-R3 BY ADDL.DIRECTOR GENERAL OF PROSECUTION SRI.K.I.ABDUL
RASHEED
BY GOVERNMENT PLEADER SRI.P.S.ABDUL KAREEM.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Pn

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

W.P (Crl.) No. 443 OF 2015

DATED THIS THE 3rd DAY OF NOVEMBER, 2015.

J U D G M E N T

C.K. Abdul Rehim, J:

The above writ petition is filed seeking a writ of Habeas Corpus for directing production of Miss. Shifana (hereinafter referred as the 'alleged detainee'), who is daughter of respondents 4 & 5 and to set her at liberty, based on an allegation that she is being illegally detained by the said respondents.

2. It is mentioned in the writ petition that the petitioner and the alleged detainee were in love. But the alleged detainee is now detained against her free will by the respondents 4 & 5, since 10-10-2015 onwards. It is stated that eventhough the petitioner had approached the 3rd respondent with a complaint, the same was not registered because of the undue influence exerted by respondents 4 & 5. According to the petitioner, the alleged detainee was in love with him since the last 3 ½ years and they were planning to get married. The petitioner's family was ready

to accept the alleged detainee. But the family members of respondents 4 & 5 are not willing for the marriage. Based on the specific allegation that the alleged detainee is illegally confined against her free will, the above writ petition is filed.

3. When the case came up for consideration on 27-10-2015 this court directed the 3rd respondent to conduct a discreet enquiry about the allegation of illegal confinement of the alleged detainee. He was directed to get an independent statement of the alleged detainee recorded through a woman police officer deputed for the said purpose. It was specifically directed that the statement should be recorded independently, not in the presence of respondents 4 & 5 or any of their family members or others.

4. Today, when the case came up, learned Government Pleader appearing on behalf of respondents 1 to 3 have produced a report of the 3rd respondent, enclosing a statement of the alleged detainee recorded by the woman police officer deputed for the said purpose. The statement of the alleged detainee would indicate that, she got

acquainted with the petitioner about 3 years back when she was studying for Plus Two course at Vidyanikethan College, Ernakulam. Eventhough she talks with him very often, it was only a friendship and there was no relationship of any other nature with the petitioner. But the petitioner misunderstood the relationship and made a request to the parents of the alleged detenue for getting her married. But the alleged detenue as well as her parents were not willing for such an alliance. Eventhough the said fact was informed to the petitioner he started causing disturbance to the alleged detenue by waiting at various places near to her residence and on her way to college in order to see her. Since such disturbance continued the alleged detenue stopped her studies. Now the marriage of the alleged detenue is fixed with another person, which is scheduled to be conducted in December, 2015. It is stated that she was staying in the house of one of her relatives at Parassala on the apprehension that the petitioner may cause obstruction to the marriage now fixed with another person. According to her, she came back to the parental house when it is

learnt that this court had directed to record her statement. She had expressed the view that she does not want to have any marital relationship with the petitioner. It is categorically mentioned that she is not under any illegal confinement of her parents or other family members and they have not caused any torture to her either physically or mentally.

5. Under the above mentioned circumstances, this court is convinced that the allegation of illegal detention raised by the petitioner is totally baseless. There exists no circumstances warranting interference of this court for issuing any writ of Habeas Corpus.

Consequently the writ petition fails and the same is hereby dismissed.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

AMG

True copy

P.A. to Judge