

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 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(Crl.).No. 448 of 2015 (S)

PETITIONER:

**K.M. MARKOSE,
KANJIRAKKATTU,
PANCODU P.O., ERNAKULAM-682 310.**

**BY ADVS.SRI.BABY KURIAKOSE
SRI.M.V.ASHIM**

RESPONDENTS:

**1. DEPUTY SUPERINTENDENT OF POLICE
MOOVATTUPUZHA - 686 611.**

**2. THE SUB INSPECTOR OF POLICE,
KOLANCHERRY, PIN-689641.**

**3. UMESH
S/O.LATE ANDREWS,
ANEESH BHAVAN, SANTHI PURAM
POST CHANDAMKARA
THIRUVANANTHAPURAMDISTRICT - 695 301.**

**R3 BY ADVS. SRI.K.L.NARASIMHAN
SRI.N.KRISHNA PRASAD**

**R3-R5 BY ADV. SMT. SREELATHA PARAMESWARAN, (SPL. G.P. FOR WOMEN
AND CHILDREN)**

**THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 08-12-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P-1: TRUE COPY OF THE RELEVANT PAGE OF SSLC BOOK RELATED TO
EBY SARA MARKOSE.**

EXT.P-2: TRUE COPY OF THE COMPLAINT SUBMITTED ON 23.10.2015.

**EXT.P-2(A): TRUE COPY OF THE ACKNOWLEDGEMENT OF RECEIPT ISSUED
FROM THE OFFICE OF THE FIRST RESPONDENT AGAINST
EXHIBIT P-2.**

EXT.P-3: TRUE COPY OF THE COMPLAINT SUBMITTED ON 24.10.2015

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

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

W.P (Crl.) No. 448 OF 2015

DATED THIS THE 8th DAY OF DECEMBER, 2015

J U D G M E N T

C.K. Abdul Rehim, J:

The petitioner is approaching this court with an allegation that his daughter, Miss.Eby Sara Markose is under illegal confinement of the 3rd respondent. Averments are to the effect that, she got acquainted with the 3rd respondent over social media through misrepresentations made by him to the effect that he is a highly qualified person, employed in Saudi Arabia in a coveted position. Having come to know the real facts, the petitioner and his wife attempted to alert and counsel their daughter about the malafide motives of the 3rd respondent. But the 3rd respondent continued to maintain the relationship and attempted to entice away the petitioner's daughter. Under such circumstances the petitioner had submitted Ext.P2 complaint before the police authorities. But the 3rd

respondent had not retracted from his dishonest moves. Thereafter on 24-10-2015 when the petitioner's daughter appeared for an interview before a Hospital at Thodupuzha, the 3rd respondent had abducted her with the help of some of his associates. Eventhough Ext.P3 complaint was lodged by the petitioner before the 2nd respondent, no effective action was taken. It is on the basis of the specific allegation that the petitioner's daughter is being illegally detained by the 3rd respondent, the above case is instituted seeking for a writ of Habeas Corpus for directing production of her corpus and to set her at liberty.

2. When the above writ petition came up for admission on 27-10-2015, this court ordered notice to the 3rd respondent by directing production of the alleged detainee. The 2nd respondent was also directed to take steps to trace out the alleged detainee and to produce her before this court on 02-11-2015. It was submitted before this court that no case has been registered with respect to missing of the alleged detainee, because no complaint was

submitted before the 2nd respondent. But it is stated that a complaint received from the petitioner by the 1st respondent was forwarded to the Puthencruz police station and a crime was registered for offence punishable under Section 294 (b). Since the direction issued by this court on 27-10-2015 was not complied with by the 2nd respondent, the respondents 1 & 2 were directed to appear in person on 03-11-2015.

3. On 03-11-2015 when the case is taken up, the 3rd respondent appeared through counsel. The respondents 1 & 2 appeared in person and produced the alleged detainee. When we interacted with the alleged detainee, she said that she is in love with the 3rd respondent and that they have decided to marry each other. Since the parents are against the marriage, she had left the parental house on her own will, on 23-10-2015. She said that she is living with the 3rd respondent since 23-10-2015 onwards at the 3rd respondent's house. She expressed her strong determination to marry the 3rd respondent.

4. The 3rd respondent was also personally present before this court. When we interacted, he expressed his willingness to solemnize a marriage under the Special Marriage Act. The alleged detainee expressed her desire to go along with the 3rd respondent and to stay with him till the marriage is solemnized. Accordingly, this court permitted the alleged detainee to go along with the 3rd respondent based on a specific undertaking that notice of the intended marriage will be submitted before the Marriage Officer, Kazhakkootam, and proof to that effect will be produced before this court. Subsequently the 3rd respondent had produced proof regarding submission of the notice of intended marriage, on 04-11-2015. Hence the case was adjourned for completion of the statutory period, for reporting solemnization of marriage and for production of the Marriage Certificate.

5. Today, when the case is taken up, counsel appearing for the 3rd respondent had produced copy of the 'Certificate of Marriage', for perusal of this court. It would

indicate that a marriage under the Special Marriage Act was solemnized between the 3rd respondent and the alleged detainee on 05-12-2015, before the Marriage Officer, Kazhakkootam. This court takes on record the valid marriage established between the alleged detainee and the 3rd respondent, under the provisions of the Special Marriage Act, 1954.

6. Under the above mentioned circumstances, it is convinced that the alleged detainee is not under any illegal confinement. On the basis of the valid marriage established, she is set at liberty to lead a marital life with the 3rd respondent, at any place of their choice.

The writ petition is disposed of accordingly.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

MARY JOSEPH, JUDGE.

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True copy

P.A. to Judge