

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 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

W.P(Cr1.) .No. 453 of 2015 (S)

PETITIONER :

SHUHAIB,
AGED 23 YEARS,
KARIPPATTUKUNNEL (MARIYIL) ,
MARITHAZHAM.P.O. ,
KANJIRAMATTOM,
ERNAKULAM-682315.

BY ADV. SRI.K.I.SAGEER IBRAHIM

RESPONDENTS :

1. SUB INSPECTOR OF POLICE,
MULANTHURUTHY POLICE STATION,
MULANTHURUTHY,
PIN-682 314.
2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM,
PIN-695 001.

bpr

W.P(Crl.).No. 453 of 2015 (S)

3. MANI.N.S,
AGED 44 YEARS,
S/O.SUKUMARAN NAIR,
NAADAKKAL,
MARITHAZHAM.P.O.,
KANJIRAMATTOM,
ERNAKULAM-682315.

R1 &2 BY ADV. ADDL.DIRECTOR GENERAL OF PROSECUTION
BY GOVERNMENT PLEADER : SRI.P.S.ABDUL KAREEM

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 09-11-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

bpr

W.P(Crl.) .No. 453 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1 A TRUE COPY OF THE PETITION IN W.P(CRL)NO.445/2015
FILED BEFORE THIS HON'BLE COURT.

EXT.P2 A TRUE COPY OF THE COMPLAINT FILED BY THE
PETITIONER BEFORE THE COMMISSIONER OF POLICE WITH
COPY TO THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

bpr

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

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W.P.[Cr].No. 453 of 2015

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Dated this the 09th day of November, 2015

JUDGMENT

MARY JOSEPH, J.

The petitioner has approached this Court seeking for the issuance of a writ of Habeas Corpus, directing the respondents to produce the body of Amritha M.Nair, the alleged detenue, and to set her at liberty.

2. It is submitted in the writ petition as follows :

The petitioner's acquaintance with the daughter of the 3rd respondent namely, Amritha M.Nair, for the last so many years developed into love affair and therefore, they decided to get married. When that factum came to the knowledge of the 3rd respondent, who is the father of the alleged detenu, the latter was confined by him in the house, and was prevented from attending the N.C.P. Course in AKB Mission Hospital, Meppayoor,

Koilandy which she was attending till then. The 3rd respondent was against the marital proposal of the petitioner with the alleged detainee as he belongs to a different religion. On 19.10.2015 evening, the alleged detainee left her house and joined the petitioner. They took steps to solemnise their marriage under the Special Marriage Act. At that juncture, the 3rd respondent, the father of the alleged detainee approached this Court and moved W.P[CrI]. No.445/2015, alleging that the alleged detainee is under the illegal detention of the petitioner. In the writ petition, this Court had issued notice to the petitioner requiring him to produce the alleged detainee before this Court on 27.10.2015. On receipt of the notice from this Court, the petitioner was about to produce the alleged detainee before this Court. But, the 3rd respondent with the assistance of the Police illegally took the alleged detainee from his custody. On

27.10.2015, when the writ petition was taken up for consideration by this Court, the learned counsel appearing for the 3rd respondent made a submission before this Court that his daughter is obtained in his custody then and that the writ petition is not pursued with any further. Thereupon, the writ petition was closed by this Court on the day itself. Thereafter, the alleged detainee contacted the petitioner several times over his mobile phone and informed that she is under confinement in her house. She also expressed her strong desire to marry the petitioner and sought for his help. On 28.10.2015 and the succeeding days also, the alleged detainee contacted the petitioner and his friends over mobile phone and repeated the same request. In the said circumstances, the petitioner approached the 1st respondent and sought for their intervention in the matter. But the 1st respondent was reluctant to entertain his prayer stating that the matter has already

been considered by the Court and custody of the alleged detainee was given to his father. They informed their adamant stand not to interfere with the matter and thereupon that the petitioner was constrained to approach this Court seeking for the issuance of a writ of Habeas Corpus.

3. On 2nd November, 2015, when the writ petition came up for consideration before this Court, this Court has directed the 1st respondent to conduct a discreet enquiry with respect to the allegations in the writ petition regarding the illegal detention of the alleged detainee. This Court has also directed the 1st respondent to depute a Woman Police Officer, to record a statement of the alleged detainee independently, out of the presence of any of her family members including the 3rd respondent.

4. On this day, when the matter is taken up, the learned Government Pleader has submitted a report

from the 1st respondent along with a statement of the alleged detainee recorded by a Woman Police Officer. It is reported by the 1st respondent that a discreet enquiry regarding the allegations of illegal detention of the alleged detainee was conducted by him. A Woman Police Officer of the rank of Assistant Sub Inspector (Grade) of Mulanthuruthy Police Station, in mufti was also deputed and an independent statement of the alleged detainee recorded through her was obtained and forwarded. Upon perusal of the statement so recorded, it is revealed to us that the alleged detainee has expressed her desire to stay with her parents at her parental home. It is reiterated by her that she was not under confinement of her parents as alleged by the writ petitioner. She had also expressed her firm determination to continue with her education. She has also stated that on 27.10.2015, when she was produced before the learned Magistrate, she was released in the

custody of her parents only on her voluntary expression of desire to go along with them.

5. The learned counsel for the petitioner has filed I.A.No.16227/2015 and sought for accepting a document produced by him as Ext.P2 (supported by an affidavit of the petitioner). Ext.P2 is the true copy of the complaint filed by the petitioner before the Commissioner of Police, Kochi City. On a perusal of the copy of the complaint, it is seen stated by the petitioner that the alleged detainee was detained by her parents against her will and wish. It is further stated that when the statement of the alleged detainee was recorded by the Assistant Sub Inspector of the Mulanthuruthy Police Station, she was restrained from disclosing the entire facts. The alleged detainee was also compelled by the Assistant Sub Inspector to go along with her parents and therefore she did so. The learned counsel for the petitioner has urged this Court to take appropriate

action in the matter by deputing a lady Advocate as Commissioner to record the statement of the alleged detainee in the matter or otherwise to direct production of the alleged detainee before this Court.

6. In the event of the alleged detainee admitting before us to have given a signed statement voluntarily to the Assistant Sub Inspector of Police and in the event of herself expressing a desire before us to join her parental house and stay along with her parents, we do not find any necessity to issue any further directions in the matter. We do not also find any reason to doubt the genuineness and veracity of the statement recorded from the alleged detainee by the Assistant Sub Inspector of Police on 03/11/2015 and forwarded to us. The alleged detainee was also personally also interacted by us about the allegations. In the circumstances, we are not inclined to pass any order as prayed for in I.A.No.16227/2015. The alleged detainee was not under

illegal detention or confinement of her parents and therefore, she is set at liberty to go with her parents. The petitioner is left open with the liberty to pursue with the complaint lodged by him before the Commissioner of Police, Kochi, as well as the Director General of Police.

With the observations herein above, the writ petition is closed.

Sd/-
C.K. ABDUL REHIM
JUDGE

Sd/-
MARY JOSEPH
JUDGE

bpr