

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 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

WP(Cr1.).No. 470 of 2015 (S)

PETITIONER(S) :

1. SHAJI AGED 58 YEARS
S/O.KUNJUKRISHNA PANICKER, ANUPAMA, VAZHATHOOR
NEYYATTINKARA P.O., THIRUVANANTHAPURAM DIST.
2. SURABHI, AGED 50 YEARS
W/O.SHAJI, ANUPAMA, VAZHATHOOR
NEYYATTINKARA P.O., THIRUVANANTHAPURAM DIST.

BY ADV. SRI.R.ANILKUMAR

RESPONDENT(S) :

1. AFEESH RAJ, AGED 40 YEARS
S/O.PRABHAKARAN, AMARIVLA VEEDU, CICILIPURAM
VENGANNUR P.O., THIRUVANANTHAPURAM DISTPIN: 695 523.
2. CIRCLE INSPECTOR OF POLICE
NEYYATTINKARA P.O., PIN: 695 121.
3. SREEKUTTY.S.
D/O.SHAJI, AMARIVLA VEEDU, CICILIPURAM
VENGANNUR P.O.
THIRUVANANTHAPURAM DIST PIN: 695 523.
4. STATE OF KERALA
REPRESENTED BY SECRETARY, HOME DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
PIN: 695 001.

R1 BY ADV. SRI.R.GOPAN

R4 BY GOVERNMENT PLEADER SMT.SREELATHA PARAMESWARAN

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
24-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(Crl.).No. 470 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: THE TRUE PHOTOCOPY OF THE FIR NO.1509/2015 DATED 21/9/2015
REGISTERED BY THE NEYYATTINKARA POLICE STATION.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

vdv

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

=====

W.P.(Crl.) No.470 of 2015

=====

Dated this the 24rd day of November, 2015

JUDGMENT

Abdul Rehim, J.

Father and mother of the 3rd respondent, who are the petitioners herein are approaching this court seeking a writ of Habeas Corpus for directing production of the 3rd respondent and to set her at liberty, based on the allegation that she is under illegal confinement of the 1st respondent.

2. It is stated in the writ petition that the 3rd respondent had passed Plus Two Examination in March 2015. She got acquainted with the 1st respondent, who was a regular visitor in the petitioner's house. The 3rd respondent is missing from the petitioner's house from 12.09.2015 onwards, and the 2nd respondent had registered a case as per Ext.P1, based on a complaint lodged by the petitioners on 21.09.2015. It is stated that the 3rd respondent was traced out by the police and produced before the Judicial First Class Magistrate Court, Neyyattinkara on

22.09.2015. Before the Magistrate the 3rd respondent expressed her willingness to go along with the petitioners and to continue her studies. Accordingly, the 3rd respondent was permitted to go along with the petitioners. But later on, in the absence of the petitioners in the house, the 1st respondent had forcefully taken the 3rd respondent from the house by threatening her with weapons and kept her under illegal custody, is the allegation. It is also alleged that the 1st respondent is a notorious person having involvement in various criminal cases. According to the petitioners, on 12.11.2015 they got an information from the 3rd respondent that she is detained in a closed room by restricting her freedom of movement and she is under threat of the 1st respondent. It is also alleged that the 3rd respondent had informed the 2nd petitioner that unless she is rescued from the custody, she will commit suicide. Under the above mentioned circumstances, the petitioners are approaching this court raising an allegation that the 3rd respondent is under illegal confinement of the 1st respondent, against her free will.

3. Pursuant to notice issued from this court, the 1st respondent appeared through counsel. The 1st respondent as well

as the alleged detainee are personally present before this court on today. When we interacted with the alleged detainee, she said that she was in love with the 1st respondent since the last so many years. It is said that the petitioners were against their relationship and they wanted her to be sent to Phillipines for higher studies, because since one of her Aunt is working there. But she was reluctant to go abroad since she wanted to marry the 1st respondent. It is said that she went along with the 1st respondent from the parental house on 12.11.2015, and solemnized a marriage with him on 14.09.2015 at Sree Rektheswari Bhagavathy Temple, Kalliyoor, Thiruvananthapuram, as per customary rites and ceremonies prevailing in Hindu religion. According to her, after the marriage when she was residing along with the 1st respondent, she was taken into custody by the 2nd respondent on 21.09.2015 and she was produced before the Judicial First Class Magistrate Court, Neyyattinkara on 22.09.2015. When she was produced before the Magistrate Court the 2nd petitioner appeared and submitted that the petitioners will conduct a customary marriage between the alleged detainee and the 1st respondent at Attukal Temple and on

that basis she went along with the petitioners to the parental home. But after reaching the house the petitioners insisted upon that she should continue her studies at Phillipines, for which she was not agreeable. Due to such disputes, she went back from the parental house along with the 1st respondent on 22.09.2015 itself and is now residing together with him at his house under the matrimonial tie. She had emphatically denied all the allegations of illegal confinement. It is said that the marriage solemnized before the temple was registered before the local Registrar of Marriages (Common) at Kalliyoor Grama Panchayath on 23.09.2015. The certificate of registration as well as a copy of the certificate issued from the Temple along with the photographs taken at the time of solemnization of the marriage, were produced for perusal of this court.

4. From the facts enumerated as above, it is evident that the allegation of illegal confinement has no basis at all. It is evident that a valid marriage has been established between the 1st respondent and the 3rd respondent, and both of them are living together based on the marriage. Therefore this court do not find any ground existing for interference by invoking jurisdiction

vested under Article 226 of the Constitution of India for issuing any writ of Habeas Corpus. Hence the writ petition fails and the same is hereby dismissed. The alleged detainee is set at liberty to go along with the 1st respondent as desired by her.

Sd/-
C.K .ABDUL REHIM, JUDGE

Sd/-
MARY JOSEPH, JUDGE

vdv