

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WP(Crl.).No. 471 of 2015 (S)

PETITIONER(S) /PETITIONER:

K.SAINUDHEEN, AGED 56 YEARS,
S/O.KOCHAHAMMED PILLAI, SHAMNAS MANZIL, MAMOODU,
MUKKUDIL P .O, THIRUVANANTHAPURAM.

BY ADV. SRI.SAJU.S.A

RESPONDENT(S) /RESPONDENTS:

1. STATE OF KERALA
REP. BY SECRETARY, DEPARTMENT OF HOME,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. SUPERINTENDENT OF POLICE,
THIRUVANANTHAPURAM (RURAL), VIKAS BHAVAN,
THIRUVANANTHAPURAM-695 001

3. THE CIRCLE INSPECTOR OF POLICE,
VENJARAMOODU POLICE STATION, VENJARAMOODU, PIN 695 607.

4. S I OF POLICE,
VENJARAMOODU POLICE STATION, VENJARAMOODU, PIN 695 607.

5. SHAFI A. S.,
S/O.ABDUL RAHMAN, SHAFI MANZIL, PARIKKAPARA,
KONANVENGA P .O., THIRUVANANTHAPURAM-695 607.

6. SHAJEER A. S.,
S/O.ABDUL RAHMAN, SHAFI MANZIL, PARIKKAPARA,
KONANVENGA P .O., THIRUVANANTHAPURAM-695 607.

7. ABDUL JABBAR,
S/O.SULTHAN PILLAI, KOTTARAYIL, PANAVOOR,
THIRUVANANTHAPURAM-695 568.

R1-R4 BY ADDL.DIRECTOR GENERAL OF PROSECUTION
R5 - R7 BY ADVS. SMT.SANTHI .M,
SRI. RANJU MOHAN
SPECIAL GOVERNMENT PLEADER FOR WOMEN AND CHILDREN
SMT. SREELATHA PARAMESWARAN.

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

:2:

WP (Crl.) .No. 471 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS:

P1:- TRUE COPY OF FIR IN CRIME NO 1264/15 OF VENJARAMOODU
POLICE STATION.

RESPONDENT(S) ' EXHIBITS:

NIL

// True Copy//

P.A. to Judge

SS

**C.K. ABDUL REHIM, J.
&
K. RAMAKRISHNAN, J.**

W.P.(Crl.) No. 471 of 2015

Dated this the 30th day of November, 2015

JUDGMENT

C.K. Abdul Rehim, J.

Father of a girl named Miss.Bismina @ Gina, aged 19 years, is the petitioner herein. He is approaching this court seeking a writ of Habeas Corpus for directing production of his daughter (hereinafter referred to as the alleged detainee), based on an allegation that she is kept under illegal confinement of respondents 5 to 7.

2. Averments in brief are that, the alleged detainee is missing since 06.11.2015 onwards and enquiries made by the petitioner had revealed that she is under illegal detention of respondents 5 to 7. It is alleged that the 5th respondent had forcefully taken the alleged detainee in a car, when she went for attending her classes. The petitioner got further information that respondents 5 and 6 have taken the alleged detainee to the house of the 7th respondent and

is being illegally detained there. Based on a complaint lodged by the petitioner to the 4th respondent, Ext.P1 crime was registered. Alleging that the police authorities are not taking any effective steps to secure the alleged detainee and to hand over her custody to the petitioner, and also alleging that she is being illegally detained against her free will, this writ petition is filed.

3. Pursuant to notice issued from this court the respondents 5 to 7 entered appearance and produced the alleged detainee. When we interacted she said that, she was in love with the 5th respondent since the last about two years. They were determined to marry each other. But her parents were not accepting the relationship. It is stated that she went along with the 5th respondent voluntarily on 06.11.2015 and was residing at Palakkad in the house of a friend of the 5th respondent. It is further stated that a customary marriage under the religious rites and ceremonies was solemnized before a priest at Vanchiyoor

on 12.11.2015. It is also mentioned that the 5th respondent and the alleged detinue had filed an original petition before the Family Court, Nedumangad as O.P.No.1058/2015 seeking a declaration that the said marriage is valid and a consequential injunction restraining the petitioner herein from separating them. It is also stated that the Family Court had passed an interim order in I.A.No.2056/2015 granting temporary injunction, restraining the petitioner herein from interfering with the marital life of the 5th respondent and the alleged detinue.

4. The alleged detinue express her strong desire to go along with the 5th respondent and to lead a marital life, on the basis of the marriage allegedly solemnized. The petitioner is disputing legality of the marriage. Despite persuasive interactions, the alleged detinue is not at all willing to go along with the petitioner to the parental house, and to stay there even for a few days. The petitioner is not amenable to accept the relationship or

to conduct a ceremonial marriage with participation of the family members.

5. From the facts enumerated as above, we are convinced that there is no illegal detention of the alleged detainee as avered in the writ petition. Evidently the alleged detainee is now living with the 5th respondent, based on a marriage alleged to have been solemnized. The question regarding validity of the marriage is a matter which need to be adjudicated by the family court in the case already instituted by the parties. Since interference of this court for issuance of any writ of habeas corpus does not exists, the above writ petition is hereby disposed of by reserving liberty to the parties to contest the matter before the family court. The alleged detainee is set at liberty to go along with 5th respondent, as desired by her.

6. Learned counsel appearing for the respondents 5 to 7 expressed an apprehension regarding physical assault from the side of the petitioner and his

henchmen. It is observed that the alleged detenue or the respondents 5 to 7 will be at liberty to approach the police officer concerned seeking protection if there is any such situation. Needless to observe that the police will take necessary steps to ensure that law and order is maintained and no criminal offence is committed.

Sd/-

C.K. ABDUL REHIM, JUDGE

Sd/-

K. RAMAKRISHNAN, JUDGE

//True Copy//

P.A. to Judge