

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Petition No.4270 of 2017

ORDER: *(Per Hon'ble Sri Justice Suresh Kumar Kait)*

Vide the present petition, the petitioner seeks direction thereby to direct the respondents to produce the detenue namely Gudla Swathi before this Court and record the statement of the detenue and register the criminal case against the erring respondents, who have committed an offence and set the detenue at free.

2) Pursuant to the order of this Court dated 07.02.2017, the detenue has been produced by the police of Mylavaram Police Station/respondent No.4 along with respondents 7 and 8 i.e, parents of the detenue.

3) In the affidavit filed in support of the petition, it is stated that the petitioner married the detenue on 16.10.2016 at Balaji Devasthanam, Appanapally. They both married out of free will and consent. Subsequently their marriage has been registered with the Registrar of Marriages vide Reg. No.266/2016 on 31.10.2016. The marriage certificate and the registration certificate are attached to the present petition. The petitioner further submits that the detenue is no more the daughter of respondents 7 and 8 but the wife of the petitioner and the

respondents 7 and 8 under coercion and pressure have kept the detenue and harassing at their house.

4) Counsel appearing on behalf of the petitioner submits that earlier the petitioner and the detenue lived together till 26.12.2016. Swathi went to Mylavaram, on that day she attended the bank till 29.12.2016 at Mylavaram but she did not return.

5) After the aforesaid incident, the petitioner went to Mylavaram and made enquiries. However, he came to know that the respondents 7 and 8 along with their other relatives and some unsocial elements came to Mylavaram and taken his wife along with them to Srikakulam against her will and wish. The respondents threatened the petitioner involving him in a criminal case. They were called to the Mylavaram P.S. At that time police recorded the statement of the wife of the petitioner and she disclosed that she being a major, married the petitioner as per her will and wish.

6) Since the petitioner and the detenue is present personally in Court. This Court interacted with the detenue. We specifically asked that whether she married at her will and wish on 31.10.2016 with the petitioner. She replied in affirmative. This Court further put a query that whether she wants to live with her parents or with her husband, for which she stated that she would like to live with her husband but not with the parents.

7) At this stage, first wife of the petitioner by name Smt.G.Prashanthi, appeared with her children, parents and relatives. She got married with the petitioner 10 years before. Out of the said wedlock, two daughters were born, who are aged about 6 years and 3 years. We have interacted with the first wife of the petitioner and asked since when she is living separately from the petitioner. She replied, since April, 2014. She also admitted that she made a complaint against the petitioner on the ground that he was harassing her and having illicit relation with another lady by name Swathi i.e, detenue herein. In the meanwhile, the petitioner filed divorce against the first wife and the marriage between the first wife and the petitioner dissolved vide *ex parte* decree dated 22.08.2016 in D.O.P.No.57/2015 on the file of Principal District Judge, Krishna at Machilipatnam.

8) The issue before this Court is not whether the first wife was served notice while granting *ex parte* decree or not.

9) The petitioner submitted that he married with detenue Swathi on 31.10.2016, after taking divorce from first wife vide decree dt.22.08.2016. They both lived together for sometime and thereafter, the second wife of the petitioner/detenue was taken away by her parents and relatives against the wish of the detenue and therefore, he has filed the petition to produce her and set her free so that they can live together as husband and wife.

10) After coming to our notice about the first marriage of the petitioner, we apprised the detenue/second wife that the first wife

has challenged the *exparte* decree and if the decree is set aside by the Court, she would not be treated as wife of the petitioner. In that case her fate would be jeopardized. She states that she is ready to face the consequences. However, she has asserted that she would not go with the parents but would join her husband i.e, petitioner.

11) Keeping in view of the above facts, having no option, we hereby set the detainee free from the custody of the respondents 7 and 8 as she is a major and got married with the petitioner happily on 31.10.2016 with her will and wish, which is evident from the photographs of the marriage also shown in Page No.17 of the petition. Their marriage was registered before the Registrar of Marriages on 31.10.2016 (document of the same is attached with).

12) We hereby make it clear that that any of the respondents including the respondents 7 and 8 will not interfere in the freedom of the detainee. It is upto her being major, whether to stay with the petitioner or wherever she wants.

13) The Police Officers are present from the Police Station Mylavaram. The petitioner is staying at Machilipatnam i.e, in the Robertsonpet Police Station limits. Though the said Police Station is not party before us, we hereby direct the Station House Officer, Robertsonpet P.S to give the protection to the detainee and the petitioner if any threat comes from any corner. The said S.H.O and the Beat Constable of the area shall give the Cell phone

numbers to the petitioner and the detenue, so that they may contact in case of any untoward incident.

14) In view of the above, since the detenue is produced and set free, the present Writ Petition is closed. No costs.

The Registry is directed to send a copy of this order to the Robertsonpet Police Station, Machilipatnam.

As a sequel, Miscellaneous Petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J

U.DURGA PRASAD RAO, J

Date: 14.02.2017
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