

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYAISHTA, 1944

WP(CRL.) NO. 425 OF 2022

PETITIONER/S:

SHARAFUDHEEN V.T., AGED 28 YEARS
S/O.MUHAMMED KUTTY.V.T., RESIDING AT VANIYAM
THODI, KARIPPOL P.O., VALANCHERY VIA, MALAPPURAM
DISTRICT, KERALA, PIN-676 552.

BY ADVS.
P.T.SHEEJISH
PARVATHY S.KRISHNAN
P.K.PURUSH
HARIKIRAN
PRAVEENKUMAR P.
STEPHY GRACE RAJ
AKHILA SRIDHARAN
A.ABDUL RAHMAN (A-1917)

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY SECRETARY TO HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.
- 2 DISTRICT POLICE CHIEF (SUPERINTENDENT),
MALAPPURAM, NEAR MSP, UP HILL, MALAPPURAM
DISTRICT, PIN-676 505.
- 3 THE STATION HOUSE OFFICER, KALPAKANCHERY POLICE
STATION, MALAPPURAM DISTRICT, PIN-676 551.
- 4 THE SUB INSPECTOR, KALPAKANCHERY POLICE STATION,

MALAPPURAM DISTRICT, PIN-676 551.
- 5 BALAKRISHNAN.K.P., RESIDING AT KLARIPALLIYALIL,
KARINGAPPARA, ADRUSSERY P.O., OZHUR, MALAPPURAM
DISTRICT, PIN-676 106.

OTHER PRESENT:

SRI E C BINEESH, PP

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 31.05.2022, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

K.VINOD CHANDRAN & C.JAYACHANDRAN, JJ.

WP (Cr1) No.425 of 2022

Dated this the 31st day of May, 2022

J U D G M E N T

Jayachandran, J.

1. Petitioner is the husband of the alleged detenu. He seeks issuance of a writ of habeas corpus to cause production of the alleged detenu, on the premise that she is under illegal detention of her father/fifth respondent. The petitioner would aver that he married the alleged detenu, pursuant to a deep love affair, on 26.4.2022. They belong to different religions and due to the possible objections from their families, their marriage was got registered under the Special Marriage Act. However, from 12.5.2022 onwards, the detenu is not contacting the petitioner and she has been illegally confined by her father/the fifth respondent. Ext.P2 complaint preferred by the petitioner before the jurisdictional police evoked no response and, hence, the writ petition is filed.

2. As per order dated 19.5.2022, we directed the third respondent/S.H.O to get a statement of the alleged detenu by a woman Civil Police Officer, without the presence of the parents or any other family members of the alleged detenu. Such statement is produced before us, wherein the alleged detenu would state that the marriage before the Sub Registrar, Kuttippuram was registered without the knowledge of their parents; that the detenu thought of accompanying the petitioner after one month, since her mother was alone in their house; that both the families, who came to know about the marriage, are not willing to accept them; that the parents of the petitioner would never permit them to live together; that the detenu is seriously apprehensive of her safety at the house of the petitioner and that she is not under any illegal detention of her parents. The alleged detenu would state that she was not subjected to any torture, whatsoever. Even when the alleged detenu would express that she is desirous of living with the petitioner, she fears that she would be ill-treated by the parents of the petitioner.

3. We see that the alleged detinue is ambivalent in her stand and she prevaricates as between her desire to be with the petitioner on the one hand, and her serious apprehension and fear of being ill-treated by the parents of the petitioner, on the other hand.

4. Having regard to our limited jurisdiction, where issuance of writ of habeas corpus is sought for, we are not in a position to pass any order enabling the alleged detinue to live along with the petitioner. When the detinue is categorical in her statement that she is not under any illegal detention of her parents, we find no ground to issue a writ of habeas corpus. We, therefore, dismiss this writ petition.

Sd/-
K. VINOD CHANDRAN
JUDGE

Sd/-
C. JAYACHANDRAN
JUDGE

APPENDIX OF WP (CRL.) 425/2022

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE CERTIFICATE OF MARRIAGE DATED 26.04.2022 ISSUED BY THE MARRIAGE OFFICER, KUTTIPPURAM.
- Exhibit P2 THE TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 13.05.2022.
- Exhibit P3 THE TRUE COPY OF THE ACKNOWLEDGEMENT RECEIPT DATED 13.05.2022 ISSUED FROM THE DISTRICT POLICE OFFICE, MALAPPURAM.