

**Jose Vs. Leena Peter**

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**SooperKanoon Citation :** [sooperkanoon.com/1096857](http://sooperkanoon.com/1096857)

**Court :** Kerala

**Decided On :** Oct-28-2013

**Judge :** Honourable Mr.Justice Antony Dominic

**Appellant :** Jose

**Respondent :** Leena Peter

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC & THE HONOURABLE MR. JUSTICE P.D.RAJAN MONDAY, THE 28<sup>TH</sup> DAY OF OCTOBER 2013 6<sup>TH</sup> KARTHIKA, 1935 WP(Crl.).No. 351 of 2013 (S) -----  
PETITIONERS: ----- 1. JOSE, S/O.VARGHEESE, ELUVATHINGAL HOUSE, NETTISSERRY, THRISSUR DISTRICT.

2. ELIYAMMA, W/O.JOSE, ELUVATHINGAL HOUSE, NETTISSERRY, THRISSUR DISTRICT. BY ADV. SRI.BIJU ABRAHAM. RESPONDENTS: ----- 1. LEENA PETER, MANAGING TRUSTEE, ASHRAYA BHAVAN ASRAMAM, SASTRY NAGAR, NADATHARA P.O., THRISSUR DISTRICT-680 751.

2. DEVI, SUB INSPECTOR OF POLICE, WOMEN POLICE STATION, THRISSUR-680 001.

3. SUB INSPECTOR OF POLICE, WOMEN CELL POLICE STATION, AYYANTHOLE, THRISSUR-680 003.
4. SUB INSPECTOR OF POLICE, OLLUR POLICE STATION, THRISSUR DISTRICT-680 306.
5. THE SUPERINTENDENT OF POLICE, THRISSUR-680 001. Prv. W.P.(CRL.).NO.351/2013.S:
6. DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM-690 001. \*ADDL. R.7. IMPEADED:
7. SRI. THANKACHAN, C/O. C.R. PONNAMMA, CHAKKALAKANDATHIL HOUSE, PERUMBALIKKAD (P.O), SAMKRANTHI, KOTTAYAM. \*ADDL. R.7. IMPEADED AS PER

#### ORDER

DTD. 25/09/13 IN W.P.(CRL.) 351/13. R1 BY ADVS. SRI.P.SANTHOSH (PODUVAL), SMT.R.RAJITHA, R3 TO R6 BY ADDITIONAL ADVOCATE GENERAL SRI. ABDUL JALEEL. THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 28-10-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(CRL.).NO.351/2013-S: APPENDIX PETITIONERS' EXHIBITS: EXT.P.1: COPY OF THE COMPLAINT FILED BY THE PETITIONERS BEFORE THE DISTRICT COLLECTOR, THRISSUR DTD. NIL. EXT.P.1.A: COPY OF THE COMPLAINT FILED BY THE PETITIONERS BEFORE THE S.I. OF POLICE, WOMEN CELL, THRISSUR. DTD. NIL. EXT.P.2: COPY OF THE F.I.R. IN CRIME NO.463/2013 OF MANNUTHY POLICE STATION DTD. 18/03/2013. EXT.P.3: COPY OF THE STATEMENT GIVEN BY DANA ON 05/07/2013 BEFORE THE SUB INSPECTOR OF POLICE, WOMEN CELL, THRISSUR. EXT.P.4: COPY OF THE STATEMENT GIVEN BY THE R.1. BEFORE THE INSPECTOR OF POLICE, VANITHA CELL, THRISSUR DTD. 05/07/2013. EXT.P.5: COPY OF THE REPORT SUBMITTED BY THE INSPECTOR OF POLICE, WOMEN CELL, THRISSUR CITY TO THE DISTRICT COLLECTOR, THRISSUR DTD. 09/07/2013. EXT.P.6: COPY OF THE NOTICE OF INTENDED MARRIAGE GIVEN BY RAJESH THANKACHAN DTD.

29/08/2013 SUBMITTED BEFORE THE MARRIAGE REGISTRAR OF OLLUKKARA SUB REGISTRY. EXT.P.7: COPY OF THE EXTRACT OF ADMISSION REGISTER OF RAJESH THANKACHAN, PURPORTEDLY GIVEN FROM GOVERNMENT HIGH SCHOOL, VAZHAPPALLY, CHANGANASSERY DTD. 02/08/2013 SUBMITTED BEFORE THE MARRIAGE REGISTRAR OF OLLUKKARA SUB REGISTRY. EXT.P.8: COPY OF THE STATEMENT GIVEN BY RAJESH BEFORE THE INSPECTOR OF POLICE WOMEN CELL OF THRISSUR CITY DTD. 09/07/2013. EXT.P.9: COPY OF THE INFORMATION RECEIVED BY P.2. FROM THE ASSISTANT COMMISSIONER OF POLICE, THRISSUR DTD. 09/09/2013 IN RESPECT OF CRIME NO.1018/2012 AGAINST R.1. EXT.P.10: COPY OF THE F.I.R. IN CRIME NO.1341/2013 DTD. 29/07/2013 OF THE J.F.C.M-III, THRISSUR BY MANNUTHY POLICE. RESPONDENTS' EXHIBITS: EXT.R1.A: COPY OF THE LETTER DTD. 10/5/13 ISSUED BY THE R.2. EXT.R1.B: COPY OF THE MARRIAGE AGREEMENT DTD. 15/05/13. Prv. W.P.(CRL.).NO.351/2013-S: EXT.R1.C: COPY OF THE ULTRASOUND SCAN REPORT DTD. 23/07/13. EXT.R1.D: COPY OF THE LETTER OF RECOGNITION FOR THE OLD AGE HOME. EXT.R1.E: COPY OF THE RECOGNITION FOR THE SHELTER HOME WITH WOMEN. EXT.R1.F: COPY OF THE COMPLAINT BEFORE THE DISTRICT COLLECTOR, THRISSUR DTD. 27/07/13. EXT.R1.G: COPY OF THE COMPLAINT BEFORE THE CITY POLICE COMMISSIONER, THRISSUR. //TRUE COPY// P.S. TO JUDGE. Prv. ANTONY DOMINIC & P.D. RAJAN, JJ.

..... W.P.(CRL)NO.351  
OF2013..... Dated this the 28th day of October,  
2013

## JUDGMENT

Antony Dominic, J: Petitioners are the parents of Dana Jose. They filed this writ petition seeking the issuance of a writ of habeas corpus for the production of their daughter on the allegation that she is being detained by the first respondent. During the pendency of the writ petition, this Court passed orders dated 5.8.2013, 25.9.2013 and 11.10.2013. These orders required the additional 7th respondent, whose son was going to marry Dana Jose mentioned above, to get the marriage

registered and produce the certificate before this Court. When the case was posted on 25.9.2013, as he did not produce the certificate and as there was no representation on his behalf, this Court issued non bailable warrant of arrest and accordingly, he was arrested and produced before us today.

2. Today on appearance, he apologized for his lapses or mistake and produced certificate dated 28.9.2013 issued by the Marriage Officer, Ollukkara which shows that Dana Jose and his son Rajesh Thankachan got married on W.P.(CRL).351 OF20132 28.9.2013 and that their marriage was registered in accordance with the provisions of the Special Marriage Act. Now that the alleged detainee is married, nothing further remains to be done in this writ petition and the writ petition is accordingly closed. We also direct that the additional 7th respondent be released forthwith from custody. ANTONY DOMINIC, JUDGE. P.D. RAJAN, JUDGE. cl W.P.(CRL).351 OF20133 ANTONY DOMINIC & P.D. RAJAN, JJ.

..... W.P.(CRL)NO.351  
OF2013..... Dated this the 11th day of October,  
2013 O R D E R Antony Dominic, J: Petitioners are the parents of 'Dana', the  
alleged detainee in this case.

2. When this case was considered by this Court on 21.8.2013, the additional 7th respondent, the father in whose W.P.(CRL).351 OF20134 custody 'Dana' was available at that time, had undertaken before this Court that her marriage will be solemnized and that, he will produce the marriage certificate before this Court on 25.9.2013. However, on 25.9.2013 neither did he appear before us nor was he represented. Therefore, this Court passed an order issuing notice to him in the correct address furnished. However, that notice has been returned unserved by the postal authorities.

3. Prima facie we are inclined to think that the additional 7th respondent is trying to mislead this Court. In such circumstances, we pass the following order:

4. We direct the 5th respondent to make enquiry about the whereabouts of the additional 7th respondent, who is related to the first respondent, trace him out and produce him before this Court. In order to enable the 5th respondent to take

appropriate action, we also issue non bailable warrant for the arrest and production of the additional 7th respondent.

5. Registry will issue appropriate communication to the 5th respondent for carrying out this order. Post the case on 28.10.2013. W.P.(CRL).351 OF20135 ANTONY DOMINIC, JUDGE. P.D. RAJAN, JUDGE. cl

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