

Arjun K., vs State of Kerala,

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Court : Kerala

Decided On : Jan-31-2020

Judge : Honourable Mr.Justice K.Harilal,Honourable Mr.Justice C.S.Dias

Appeal No. : WP(Crl.)/35/2020

Appellant : Arjun K.,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.HARILAL & THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 31ST DAY OF JANUARY 2020 / 11TH MAGHA, 1941 PETITIONER/S: ARJUN K., AGED 29 YEARS, S/O.SASEENDRAN, RESIDING AT KAIPPURATH HOUSE, P.O.G.A.COLLEGE, CALICUT 673 014. BY ADVS. SRI.C.V.MANUVILSAN M.R.HARISH K.VIDYA MANUVILSAN SMT.SREELEKSHMI SANALKUMAR SRI.O.A.ANJU SARATH KRISHNAN T RESPONDENTS:

1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF HOME AFFAIRS, GOVERNMENT OF KERALA,

THIRUVANANTHAPURAM-695 001. 2 THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM-695 001. 3 THE COMMISSIONER OF POLICE, KOZHIKODE CITY-673 004. 4 THE SUB INSPECTOR OF POLICE, PANTHEERANKAVU POLICE STATION, KOZHIKODE-673 019. 5 KUNHAHAMMEDKUTTY N, NARIMUKKIL HOUSE, PUTHURMADAM, PANTHEERANKAVU P.O - 673 019. R5 BY ADV. SRI.K.A.SALIL NARAYANAN GP---K B RAMANAND .

OTHER PRESENT: THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 31.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Harilal, J This writ petition has been filed on the allegation that the alleged detainee, by name, Safana, aged 25 years, is under the unlawful detention of the 5th respondent, her father. According to the petitioner, the petitioner and the said Safana are in love for the last more than four years and they have decided to get married at the earliest. When the 5th respondent came to know about the said love affair, he opposed the same. Then they have issued Ext.P1 notification of intended marriage under the provisions of the Special Marriage Act. While awaiting for completion of the statutory period of one month to register

their marriage, the 5th respondent confined her into his unlawful custody and, thereafter, the detainee is under the unlawful detention of the 5th respondent and his men.

2. Pursuant to the interim order of this Court, the

detainee has been produced before this Court and we have interacted with the detainee. She admitted the allegation of unlawful detention alleged in the writ petition. According to her, she is in love with the petitioner for the last more than four years and they have decided to get

married at the earliest. When the 5th respondent opposed the same, they have issued Ext.P1 notice of intended marriage. She wants to register the marriage in accordance with the provisions under the Special Marriage Act. But

when the 5th respondent came to know about the same, he imposed restrictions on her free and independent life and thereby she is unable to register the marriage, as she desires. The detinue being a person, aged 25 years, has the right to move freely and independently in accordance with her will and wish.

3. In view of the statement made before us, we

find that the detinue is under the unlawful detention of the 5th respondent. The detinue is set at liberty and she is free to live in accordance with her will and wish. In case of any threat or obstruction from the part of the 5th respondent, the detinue is at liberty to make a complaint before the Police concerned and in that event the police shall provide adequate police

protection to the detinue and the petitioner to live together and also to register the marriage in accordance with the provisions under the Special Marriage Act. This W.P.(Crl) is allowed as prayed for. Sd/- K.HARILAL, JUDGE sd/- C.S.DIAS, JUDGE AMV/01/02/2020 - APPENDIX PETITIONERS EXHIBITS : EXT.P1 : COPY OF THE NOTICE OF THE INTENDED MARRIAGE FROM DEPARTMENT OF REGISTRATION KERALA IN SECOND SCHEDULE OF SECTION 5 OF SPECIAL MARRIAGE ACT 1954 BY THE PETITIONER AND THE DETENUE DATED 15.01.2020. EXT.P2 : COPY OF THE ACKNOWLEDGE CUM RECEIPT FOR SPECIAL MARRIAGE, TOGETHER WITH AN ANNEXURE CONTAINING ALL PARTICULARS. EXT.P3 : COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED BY THE PANTHEERANKAVU POLICE STATION, KOZHIKODE CITY TO THE PETITIONER. RESPONDENTS EXHIBITS : NIL TRUE COPY P.A.TO JUDGE