

Balamurugan Vs. Palanivel and Another

Balamurugan Vs. Palanivel and Another

SooperKanoon Citation : sooperkanoon.com/786193

Court : Chennai

Decided On : Jul-04-1995

Reported in : 1996CriLJ167; 1995(2)CTC52

Judge : Jayarama Chouta and; K.A. Thanikkachalam, JJ.

Appeal No. : H.C.P. No. 877 of 1995

Appellant : Balamurugan

Respondent : Palanivel and Another

Advocate for Def. : R. Subramanian, Adv. and ;P. Govindarajan, Govt. Adv.

Advocate for Pet/Ap. : P.V. Bakthavatchalam, Adv.

Judgement :

Thanikkachalam, J.

1. This habeas corpus petition was filed by the petitioner for the production of the detinue Kavitha, aged about 22 years, said to have been married by the petitioner. The first respondent is the father of the detinue. The first respondent was represented through his counsel and he filed a counter-affidavit. According to the petitioner, he married the detinue, Kavitha on 12-5-1995 in Vadagasi Sripudhu Amman Temple according to Hindu rites. In the counter-affidavit filed by the first respondent, it is stated that no such marriage took place between his daughter,

the detenue and the petitioner herein. According to the first respondent the petitioner high-handed by and illegally stating that he married the detenue and the petitioner is thereby black-mailing the family of the first respondent. Even during the pendency of this habeas corpus petition, it is stated that the petitioner herein used to go to the house of the detenue threatened them that he would carry the detenue by force. According to the first respondent, complaint was given to the police on this aspect.

2. As per the earlier directions of this Court, the detenue was produced before this Court by her parents and the detenue and her parents categorically denied the marriage having taken place between the detenue and the petitioner.

3. When we asked the petitioner to produce evidence in support of the marriage alleged to have been taken place between him and the detenue, he produced a certificate said to have been issued to him by the said temple officials. The said certificate appears to be not in proper form. There is no witness to the alleged marriage. The first respondent produced a xerox copy of the letter written by the village headman stating that no such marriage took place in the said temple between the petitioner and the detenue. When the petitioner is unable to prove the marriage between himself and the detenue, it is not fair and proper on his part to file this habeas corpus petition for the production of the detenue. The attempt made by the petitioner to secure the detenue appears to be illegal and controverting the well established customs. This appears to be a sort of black-mailing the detenue and her parents in parting the detenue with the petitioner. If this kind of activities are encouraged, it would be a menace to the well established societies and to the parents of the young girls in future. This kind of activities must be curbed in the initial stage itself.

4. Considering all these aspects, we are of the opinion that this habeas corpus petition was filed without any legal basis. Therefore, we dismiss this habeas corpus petition. At the same time, we should also take note of the fact that by filing this habeas corpus petition and by subsequent developments and activities, the petitioner has put the detenue and her family into great difficulty shame and caused mental agony and anguish by making them to come to this Court several

times. The petitioner also made them to suffer monetarily. Therefore, we direct the petitioner to pay a sum of Rs. 10,000/- (rupees ten thousand only) to the detenue by way of damages and expenses. We are passing this order today so as to prevent such kind of unsocial and illegal activities in future. If the petitioner fails to pay the said sum to the detenue within a period of eight weeks from today, it is open to the detenue to approach this Court for further remedy.

5. Petition dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com