

Subinsha Vs. District Superintendent of Police and ors.

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Court : Kerala

Decided On : Oct-27-2010

Judge : R. Basant; M.L. Joseph Francis, Jj.

Appeal No. : WP(Crl.).No. 398 of 2010

Appellant : Subinsha

Respondent : District Superintendent of Police and ors.

Advocate for Def. : SRI.N.N.SUGUNAPALAN, Adv.

Advocate for Pet/Ap. : SRI.THOMAS ABRAHAM, Adv.

Judgement :

O R D E R

R. BASANT &

M.L. JOSEPH FRANCIS, JJ.

W.P.(Crl.) No. 398 of 2010 S

Dated this the 27th day of October, 2010

The petitioner has come to this Court with this petition for issue of a writ of Habeas Corpus to search for, trace and produce Ramshitha, a young girl, aged about 18 years (date of birth 19.8.1992). She is a student of Plus two course. She is residing along with her parents and her brother. The petitioner and the alleged detinue Ramshitha were in love. According to the petitioner, she had come to his house and both of them had eloped earlier. She was aged about 15 years then. Later she was produced before the Magistrate. As Ramshitha had not attained the age of 18 years then, she was sent along with her parents. According to the petitioner, Ramshitha had wanted to go with him and she had asserted that as soon as she attains majority she will join the petitioner. The petitioner waited patiently till she attains the age of 18 years. After she attained the age of 18 years, the petitioner wanted to resume the relationship with the alleged detinue. But the alleged detinue was being illegally detained and confined by her parents. She was not being permitted to contact the petitioner. It is in these circumstances that the petitioner came to this Court with this petition on 7.10.2010. The case was posted to 8.20.10, 12.10.10 and 18.10.2010.

2. After hearing learned counsel for the petitioner in detail and after perusing the documents produced and after hearing the learned Government Pleader, who took instructions from the police about the previous proceedings before the Valiyathura Police Station/Magistrate, we admitted this petition on 22.10.2010. Notice was ordered to the respondents. The case was posted to this date.

3. Today when the case is called, the petitioner is present. He is represented by his counsel. Respondents 3, 4 and 5 have appeared before Court. They are also represented by a counsel. The alleged detinue has come to Court along with/in the custody of respondents 3 to 5, who are allegedly detaining and confining her. We permitted her to remain alone in the Chamber with opportunity to no one to interact with her. The alleged detinue stated before us that she does not want to interact with the petitioner. During the pre-lunch session she was permitted to remain in the Chamber. After the lunch recess we interacted with the alleged detinue alone initially. Later we interacted with the alleged detinue in the presence of respondents 3 and 4. Subsequently we interacted with her in the

presence of the petitioner. Learned counsel for the petitioner, learned counsel for respondents 3 and 4 and the learned Government Pleader were present.

4. In our interactions with the alleged detenu, she stated categorically that she does not want to go with the petitioner. She wants to return along with respondents 3 to 5. She is not under illegal detention or confinement of any one. It is true that there was some earlier relationship between the alleged detenu and the petitioner when she was a small child. She does not now want to continue the relationship with the petitioner. She made a categorical assertion that she wants to return from Court along with respondents 3 to 5.

5. The petitioner initially found it difficult to accept the response of the alleged detenu. We interacted with them alone. We are convinced now that the alleged detenu is not speaking under any threat, pressure or influence. She stated voluntarily that she does not want to have any relationship with the petitioner and wants to return from Court along with respondents 3 to 5. We accept the decisional autonomy of the alleged detenu, who has crossed the age of majority. We are satisfied that her response can be accepted by the Court.

6. The alleged detenu states that a camera belonging to her is available with the petitioner. The petitioner agrees to return the same to the alleged detenu through the counsel appearing for the parties in this case. The petitioner has with him some greeting cards and a stamp size photograph of the alleged detenu. The alleged detenu and respondents 3 to 5 requested that they be returned to them. The petitioner was initially reluctant to do the same, but later he agreed to destroy the same. Accordingly counsel for the petitioner has destroyed the greeting cards and the photograph which were available with the petitioner in our presence. Both sides agree to forget and forgive all events which had taken place in the past. We are satisfied that the Writ Petition can now be dismissed.

7. In the result:

a) This Writ Petition is dismissed.

b) The alleged detinue, Ramshitha is permitted to leave the Court along with respondents 3 to 5 as desired by her.

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