

(2009) 09 KL CK 0024

In the High Court Of Kerala

Case No : Writ Petition (Criminal) . No. 265 of 2009 (S)

A. Madhoji Rao

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 15-09-2009

Acts Referred:

Citation : (2009) 09 KL CK 0024

Hon'ble Judges : R. Basant, J;M.C. Hari Rani, J

Bench : Division Bench

Advocate : M. Sasindran, for the Appellant; M. Ramesh Chander, for the Respondent

Final Decision : Dismissed

Judgement

R. Basant, J.—The petitioner has come to this Court with this application for issue of a writ of habeas corpus complaining that his sister Kavitha aged 33 years is missing from 22/1/2009 and has not been traced thereafter. She was residing with her husband and children along with respondents 4 to 7 at her matrimonial home. On the complaint of the 7th respondent, crime No. 34/09 was registered at the Adoor police station. The petitioner came to this Court apprehending foul play. He suspected that his sister is under detention or may have been harmed by respondents 4 to 7. This order must be read in continuation of the earlier orders dated 15/7/2009, 29/7/2009 and 26/08/2009. The case actually stood posted to 30/09/2009. The case has been brought up for hearing today at the request of the learned Government Pleader on his submission that the alleged detainee Kavitha has now been traced by the police. She was produced before the learned Magistrate having jurisdiction also, it is submitted.

2. Today when the case was called, the petitioner is present along with his counsel. The alleged detainee is present. Respondents 4 to 7 have taken the stand that the alleged detainee has deserted her husband and had gone away from her matrimonial home.

3. As the alleged detainee has been traced, we permitted her to remain in the chamber without interactions with anyone. Later, after the lunch recess, we interacted with her. She states that she is not under illegal detention or confinement by anyone. Her life at her matrimonial home was miserable. She even thought of committing suicide. Unable to stand the trauma at her matrimonial home, she had gone away from her matrimonial home on her own. She was residing earlier at Bhadravathy with some person whose family gave protection to her. Later, she had come to the house of her uncle Thanoji Rao and was residing along with him at Khadri at Bangalore. There the police was informed and accordingly, the police traced her, she submits. In response to our specific query, she asserts that she is not under detention and that she had gone away from the house of respondents 4 to 7 on her own as she was unable to stand the trauma there. She prays that she may be permitted to return along with the son of Thanoji Rao - Sri. Parthasarathy with whom she come to court today. She is aged 33 years now, she submits.

4. The petitioner and his counsel submit that they have no further grievance and they are satisfied that the alleged detainee is not illegally detained or confined by anyone. The petitioner submits that he has no objection against the alleged detainee going along with Sri. Parthasarathy, with whom she has come to court today. The learned Counsel for respondents 4 to 7 submit that appropriate orders may be passed. Sri. Parthasarathy, with whom the alleged detainee has come to court today, submits that he is willing to take her back to the house of his father Thanoji Rao at Khadri, Mangalore.

5. We are satisfied that the alleged detainee, who has been missing from her matrimonial home from January 2009, is not under illegal confinement or detention by anyone. We are, in these circumstances, satisfied that this writ petition can now be dismissed.

6. This writ petition is accordingly dismissed. The alleged detainee Kavitha, sister of the petitioner, is permitted to leave the court along with Parthasarathy, son of Thanoji Rao, as requested by the alleged detainee and as agreed by the petitioner herein. The learned Government Pleader submits on behalf of the police, and we accept the said submission, that necessary action shall be taken in the crime registered, in accordance with law.