

(2011) 05 KL CK 0053

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 186 of 2011 (S)

Basheer A.

APPELLANT

Vs

The Superintendent of Police and Others

RESPONDENT

Date of Decision : 03-05-2011

Acts Referred:

Citation : (2011) 05 KL CK 0053

Hon'ble Judges : M.L. Joseph Francis, J;K.T. Sankaran, J

Bench : Division Bench

Advocate : B. Mohanlal, for the Appellant; Manoj Ramaswamy, for the Respondent

Final Decision : Dismissed

Judgement

K.T. Sankaran, J.—The Petitioner alleges that his daughter Nisha, aged 26 years, is illegally detained by Respondents 6 to 9.

2. When the Writ Petition came up for hearing on 8.4.2011, the following order was passed:

The Petitioner is the father of the alleged detainee. The illegal detention is alleged against Respondents 6 to 9.

2. Today the alleged detainee was present. Her parents and Respondents 7 and 8 were also present.

3. We heard the learned Counsel appearing for the parties.

4. The alleged detainee would say that she has gone on her own and she is married to the sixth Respondent. Notice under Special Marriage Act has been given on 24.3.2011.

5. The parents of the alleged detainee opposed the alliance. The father of the alleged detainee says that there is no marriage in law. Learned Counsel for the Petitioner will also point out that there is no legal marriage.

6. The alleged detainee would say that she may be permitted to live with the 6th Respondent and that her presence is highly necessary for his recovery. After some discussions, we feel that the following orders can be passed:

The alleged detainee is today permitted to go with Respondents 7 and 8. She can reside in the house of Respondents 7 and 8 for today. But she must return back tomorrow (9.4.2011) to the house of the Petitioner and reach there before 5 p.m. Thereafter from 10.4.2011, everyday she is permitted to go to the house of Respondents 7 and 8 in the morning. But she must return back to the house of the Petitioner and reach there before 5 p.m., on every day.

Respondents 6 to 9 shall not stand in the way of the alleged detainee going back to her house, so that she reaches the house of the Petitioner every day before 5 p.m.

7. We make it clear that after today the alleged detainee shall not spend the night in the house of Respondents 7 and 8. The Petitioner and his wife and other relatives of the alleged detainee will not intimidate or threaten her in any manner, when she is at the house of the Petitioner, against the alliance with the sixth Respondent. However, it is open to the parents of the alleged detainee to offer parental advice. Respondents 6 to 9 also shall not threaten or intimidate the alleged detainee so that the alliance with the 6th Respondent takes place. The parents and other relatives of the alleged detainee shall not compel the alleged detainee to go for any religious counselling.

8. We request Dr. P.S. John, who is the doctor treating the sixth Respondent to send a report in a sealed cover indicating the condition of the sixth Respondent, whether he can lead a normal married life within a reasonable time, and if so, what time.

9. The Petitioner shall produce the alleged detainee before this Court on 29.4.2011.

3. On 29.4.2011, this Court passed the following order:

The Petitioner, his wife, the seventh Respondent and Nisha, the alleged detainee, are present. It is stated by Nisha and the learned Counsel appearing for Respondents 6 to 8 that the marriage between Nisha and Ajmal Khan was registered under the Special Marriage Act.

2. The Petitioner and his wife submitted that there was no legal marriage.

3. As per the order dated 8th April, 2011, Dr. P.S. John, who was treating the sixth Respondent, was requested to send a report in a sealed cover indicating the health condition of the sixth Respondent Ajmal Khan. The report is not seen received.

4. The learned Counsel appearing for Respondents 6 to 8 submitted that copy of the order dated 8.4.2011 as well as copy of this order would be served on Dr. P.S. John. Issue copy of the order dated 8.4.2011 and copy of the order passed

today to the learned Counsel appearing for Respondents 6 to 8.

5. Post on 3.5.2011. The Petitioner and Nisha shall be present on that day. The interim arrangement as per the order dated 8th April, 2011 shall continue till 3.5.2011.

4. Dr. P.S. John, who had treated the sixth Respondent Ajmal Khan, has filed a report dated 29.4.2011. The report indicates that Ajmal Khan is having quadriplegia (Paralysis of all the four limbs and trunk below neck) following a road traffic accident on 16th September, 2007, while he was in Delhi. He underwent a surgery in Delhi. Later, he was treated at Lakeshore Hospital at Cochin on 21.1.2008. Ajmal Khan had undergone stem cell therapy. Dr. P.S. John stated in the report that a new treatment strategy was adopted for spinal cord regeneration. Seven sittings were attended by Ajmal Khan for spinal cord regeneration therapy. Dr. P.S. John also states that there is steady improvement. However, he has also reported that at this stage, it is difficult to say whether Ajmal Khan will be able to lead a normal married life within a reasonable time.

5. Respondents 6, 7 and 8 produced before Court the certificate of marriage dated 27.4.2011 issued by the Marriage Officer. The certificate shows that on 27.4.2011 the marriage between Sri. Khan S.A. and Nisha B was solemnized. The learned Counsel for Respondents 6 to 8 submitted that Khan S.A. mentioned in the marriage certificate is the sixth Respondent Ajmal Khan.

6. In view of the fact that the marriage between Ajmal Khan and Nisha took place, it cannot be said that Nisha is under the illegal detention of Respondents 6 to 9. Nisha appeared in person and she stated that she is free and she is going to her husband's house in terms of the interim order passed by this Court. She expressed her desire to stay permanently in the husband's house.

In view of the fact that Nisha is not under the illegal detention, no further orders are required in the Writ Petition. The Writ Petition is, accordingly, closed.