

(2012) 10 KL CK 0065

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 484 of 2012 (S)

B.K. Mohammed Sha

APPELLANT

Vs

District Police Chief Parakatta, Vidhyanagar,
Kasargod-671125, S.I. of Police Bekal Police Station,
Kasargod-671318, Suhra and Faisal P.K.

RESPONDENT

Date of Decision : 04-10-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 10 KL CK 0065

Hon'ble Judges : Pius C. Kuriakose, J;N.K. Balakrishnan, J

Bench : Division Bench

Advocate : V.R. Rekesh and Smt. Mehtab P. Easa, for the Appellant; N. Suresh, Government Pleader for R1 and R2 and Sri. Babu. S. Nair for R3, for the Respondent

Judgement

Pius C. Kuriakose, J.—The petitioner, B.K. Mohammed Sha, has filed this writ petition under Article 226 seeking a writ of habeas Corpus for the liberation and production of Shahida his love, who is the daughter of the 3rd respondent. According to the petitioner, he and Shahida are deeply in love since his boyhood and they are determined to get married to each other. But the 3rd respondent, mother of Shahida, opposed the same and the 3rd respondent is keeping Shahida under illegal detention with the objective of preventing Shahida from having any contact with the petitioner. The petitioner submits that the life of Shahida is in danger. On considering this writ petition for admission, we issued notice by special messenger to respondents 3 and 4 and directed them to produce Shahida before this court. Accordingly, Shahida accompanied by her mother 3rd respondent came to this court.

2. We interacted with Shahida in detail. She told us that she is deeply in love with the petitioner and wants to get married him. To a specific query put by us as to whether she is under illegal detention, she told that it will not be correct to say that she is under detention, but she does have the freedom which she wants.

She is under the control of the 3rd respondent, who is very much opposed the idea of the petitioner marrying her.

3. We interacted with the 3rd respondent, the mother of Shahida. The 3rd respondent told us that she and her husband cannot agree to give their daughter Shahida in marriage to the petitioner. Shahida was previously married and in that wedlock Shahida has a son. According to the 3rd respondent, the petitioner is not ready to take that child. There are several reasons as to why they are opposed to marriage between the petitioner and Shahida. The petitioner does not have a house of his own. He is living in a rented house. The petitioner is not ready to accept Shahida's son in her first marriage. The petitioner has been involved in several crimes. They do not want such a person to be their son in law.

4. We interacted with the petitioner. He told us that he is working as an Area Manager in a company dealing with ayurvedic medicines. He draws monthly salary of Rs. 25,000/-. He agreed that he does not have a house of his own. He told us that he is ready to take Shahida's son in her first marriage also if Shahida is given to him in marriage.

5. What we gather, from the interaction we had with Shahida and the petitioner, is that Shahida is deeply in love with the petitioner and wants to get married to him. But the parents of Shahida are against the idea of the petitioner marrying their daughter. The crucial question that we are called upon to decide, in this case where the relief sought for is the issuance of writ of Habeas Corpus, is whether the allegation that Shahida is detained by the 3rd respondent in her house against her wishes is correct. We are inclined to answer the above question against the petitioner. Even as we find that the 3rd respondent, who is opposed to the idea of the petitioner marrying Shahida, does not allow much freedom to Shahida in meeting the petitioner and does not allow the petitioner to meet Shahida in the 3rd respondent's house. As regards Ext. P8 photograph what the 3rd respondent told us was that the above photograph was taken by the petitioner in her house without her knowledge. Smt. Suhra has assured us that she or her husband will not impose any marriage on their daughter Shahida to which she is opposed. We record the above assurance given to us by Suhra. We direct the 3rd respondent not to impose any marriage upon Shahida to which she is opposed.

As we do not find any warrant for issuance of the writ of Habeas Corpus sought for, we close this writ petition giving permission to the petitioner to seek revival as and when it is learnt that the father of Shahida is available at Chembiraka.