

(2014) 11 KL CK 0057
In the High Court Of Kerala
Case No : W.P. (Crl.) No. 459 of 2014 (S)

Manish Mohan

APPELLANT

Vs

Gopalan

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Citation : (2014) 11 KL CK 0057

Hon'ble Judges : V.K. Mohanan, J;K. Harilal, J

Bench : Division Bench

Advocate : M.V. Rajendran Nair, Advocate for the Appellant; K.I. Abdul Rasheed, A.D.G.P. and Unni. K.K.(EZHUMATTOOR), Advocate for the Respondent

Judgement

V.K. Mohanan, J.—The petitioner, claiming that he was in love with the 2nd respondent, approached this Court and submits that she is under the illegal custody of the 1st respondent, who is none other than the father of the 2nd respondent, the alleged detainee. According to the petitioner, the 2nd respondent and himself were in love from 2012 onwards and at that time he was a B.Com. student in the Co-operative College, Thodupuzha and the 2nd respondent was working as a Teacher in the said college. It is also averred that the brothers and relatives of the 2nd respondent are against their affairs and they threatened the petitioner. It is also alleged that on the basis of the complaint preferred by the relatives of the 2nd respondent, he was suspended from the college and even in the year 2013 the parents of the 2nd respondent asked her to stop the job in the college and accordingly she gave up the job during November 2014. Hence, according to the petitioner, she could not continue her job because of the interference of her relatives including the parents. It is further alleged that the 1st respondent and the relatives of the 2nd respondent had not permitted the petitioner to contact her and he was assaulted by the brother of the 2nd respondent. Thus, it is the case of the petitioner that all of his attempt to contact the 2nd respondent was defeated by the 1st respondent and his henchmen and the 2nd respondent was forcibly prevented from contacting the petitioner. In

para-4 of the petition, it is averred that, "The petitioner had seen that the 2nd respondent was kept in a closed room in the residence of the 1st respondent. Then the petitioner had tried to talk to the 2nd respondent and seeing the same the brother of the 2nd respondent assaulted the petitioner with the aid of his friends." It is also seen averred that the relatives of the 2nd respondent is now pressurising the 2nd respondent to forget the petitioner and for marriage with another man. Thus, according to the petitioner, the 2nd respondent is now unlawfully detained in the custody of the 1st respondent, even though she is a major woman. So, it is prayed to issue a writ of habeas corpus commanding the third respondent to produce the 2nd respondent, namely Sunithamol, before this Court.

2. When the above writ petition came up for admission and while admitting and issuing notice, the 2nd respondent is directed to appear before this Court on this date along with her father, the 1st respondent, and the 3rd respondent, the Sub Inspector of Police, Thodupuzha, is also directed to see that the respondents 1 and 2 have complied with the above direction.

3. In pursuance to the above direction, the 2nd respondent appeared in person before us along with her husband.

4. We have interacted with the petitioner as well as the 2nd respondent and also interacted with the husband of the 2nd respondent who is present. We have also heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents 1 and 2.

5. The learned counsel for the petitioner submitted before us that the 2nd respondent was in love with the petitioner while the petitioner was a student of the Co-operative College, Thodupuzha, wherein the 2nd respondent was working as a Teacher. He had also argued highlighting the averments contained in the above writ petition, which we have already referred to above. The learned counsel appearing for the respondents 1 and 2 specifically submitted that the marriage of the 2nd respondent was solemnized on 14/11/2013 and before that there was certain threat from the part of the petitioner and after the marriage of the 2nd respondent there was no nuisance from the part of the petitioner.

6. We have carefully considered the submissions made by the learned counsel for the petitioner as well as the respondents and, as we have already stated above, we have interacted with the detinue and the petitioner. When this Court was about to dispose of the writ petition the learned counsel for the petitioner, after having argued the matter to a certain extent, submitted before us that he is not pressing this petition. In reply to our query as to why the petition is not pressed, it is submitted that now it is realised that the 2nd respondent has already married and unwilling to come with the petitioner and therefore not pressing this writ petition.

7. A matter like this, it is not proper to allow the petitioner to withdraw the original petition after having made certain allegations which are having far

reaching consequences with respect to the family life of the 2nd respondent as well as the 1st respondent. In para-4 of the original petition, the petitioner herein had specifically stated that he had seen that the 2nd respondent was kept in a closed room in the residence of the 1st respondent. The averments are not supported with any facts. However, the petitioner has no claim that he had taken any steps to get release the 2nd respondent, if such allegations are true.

8. In this juncture, it is also relevant to note that when we interacted with the detenue, she has stated before us that she was not having any love affairs with the petitioner and she had seen the petitioner for the first time in the college where she was working as a Teacher. According to her, the petitioner was continuously harassing her for the sole reason that she had reported his immature conduct to the Head of the College. The present petition is also, according to the detenue, filed as part of his attempt to harass the detenue, who is now leading a peaceful marital life. We have also interacted with the husband of the detenue and as we have satisfied, it is learnt that the husband of the detenue is also satisfied that all the allegations and the claim of the petitioner are baseless.

9. As the detenue herself submitted before us that she is not under the illegal confinement of anybody, the above writ petition can be closed. However, the fact remaining is that the allegation and the claim of the petitioner against the 2nd respondent are absolutely baseless and unfounded. Having regard to the facts and circumstances involved in this case, we are of the opinion that the present petition is filed due to extraneous consideration and to harass the 2nd respondent. So, according to us, this is a case where justice demands to impose cost on the petitioner in making baseless allegations and claim against the 2nd respondent, who is at present living along with her husband.

10. In the above circumstance, this writ petition is dismissed and the petitioner is directed to pay a cost of Rs. 10,000/- (Rupees Ten thousand only) to the 2nd respondent, which shall be paid within one month from today, if there is any failure on the part of the petitioner in paying the amount within the time stipulated, he has to face consequential legal proceedings. The 3rd respondent is directed to see that as and when police assistance is required, sufficient protection and assistance shall be afforded to the respondents 1 and 2, against threat, if any, from the part of the petitioner.

This writ petition is dismissed as above.