
(2011) 06 KL CK 0155

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 303 of 2011 (S)

Pushpa

APPELLANT

Vs

Supila and Others

RESPONDENT

Date of Decision : 24-06-2011

Acts Referred:

Citation : (2011) 06 KL CK 0155

Hon'ble Judges : M.L. Joseph Francis, J;K.M. Joseph, J

Bench : Division Bench

Advocate : Nirmal S, for the Appellant; No Appearance, for the Respondent

Judgement

K.M. Joseph, J.—The Writ Petition is filed with the following prayers:

(i) Issue a writ in the nature of Habeas Corpus directing the Respondents 3, 4, 5 and 7 to produce the body of the 1st Respondent before the Honourable Court.

(ii) Issue a writ in the nature of mandamus directing the Respondents 3, 4, 5 and 7 to give urgent medical treatment to the first Respondent.

2. Petitioner is the mother of the alleged detainee. She has made the allegation of illegal detention against the second Respondent.

3. We have passed order dated 22.6.2011, wherein we had indicated that the detainee has stated that she is married to the 2nd Respondent under the Special Marriage Act, and the allegations in the writ Petition are false. We have also noted that the 2nd Respondent denied the allegations made in paragraph 7 of the Writ Petition. We found that no illegal detention is made out and that the first Respondent is a free agent. The first Respondent is none other than the alleged detainee. We also noted that there is no merit or bona-fides in this petition and Respondents 1 and 2 are apparently married and they are living as husband and wife along with the parents and sister of the 2nd Respondent. We further noted that the Petitioner will file an affidavit.

4. The Petitioner has filed an affidavit. Therein, it is inter alia stated as follows:

2. The writ petition (Crl.) came up for hearing and this Hon''ble Court had directed to produce the detenue. The detenue/1st Respondent on appearance submitted before this Hon''ble Court that she is not detained by the 2nd Respondent and that they legally married and leading a happy life. The detenue/1st Respondent also submitted that the allegations in the W.P. (Crl) against the 2nd Respondent are not true.

3. The Petitioner submits that she is presently satisfied with the mental state of the detenue/1st Respondent.

4. The Petitioner undertakes that she would not interfere with the life of the 1st Respondent and her husband in any manner. The Petitioner also undertakes that she would not approach any other forum seeking similar relief as prayed for in the writ petition(Crl.). This Petitioner shall stay away from the life of the 1st Respondent; the daughter of the Petitioner unless she is approached by the 1st Respondent to help in writing if any contingency arises in the future.

5. We heard Sri. S. Nirmal, learned Counsel for the Petitioner and Sri. C.M. Kammappu, learned Senior Government Pleader.

6. When the matter came up originally for admission, we had directed the Government Pleader to get instructions in the matter. The Government Pleader on instructions submitted that there is no merit in the case. Despite the same, Petitioner insisted that the matter be looked into. It is consequently that we were persuaded to issue notice. The first and second Respondents had to travel all the way from Kozhikode since there was a direction to produce the alleged detenue and they were present, and as already noted, we find that there is no bonafides in this petition.

7. We would have thought that this is a case which calls for imposition of heavy cost. We, however, take note of the stand of Respondents 1 and 2 that they do not want any amount from the Petitioner. But, at the same time, we would think that the petition being meritless and bereft of bonofides, the Petitioner cannot go unvisited with costs, at least in some measure.

8. Having regard to all circumstances, we dismiss this Writ Petition and direct that the Petitioner will pay a sum of Rs. 2,000/- (Rupees two thousand only) as cost to the Kerala State Legal Services Authority, within a period of one week.