

(2011) 12 KL CK 0040

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 553 of 2011

Rajesh S.

APPELLANT

Vs

Superintendent of Police and Others

RESPONDENT

Date of Decision : 16-12-2011

Acts Referred:

Citation : (2012) 1 KLJ 338

Hon'ble Judges : Thottathil B. Radhkrishnan, J;C.T. Ravikumar, J

Bench : Division Bench

Advocate : K.I. Abdul Rasheed (ADGP) and Vijai Mathews, Thyparambil Thomas Thomas, for the Respondent

Judgement

Thottathil B. Radhkrishnan, J.—Read the earlier orders. The alleged detainee Vidya is present. We interacted with her. She is well oriented. She is clear in her stand that she will go with the petitioner who has married her. The marriage has to be registered in terms of the provisions of the Rules under the Hindu Marriage Act since the parties are Hindus. It also needs to be registered in terms of the Kerala Registration of Marriages (Common) Rules, 2008. Having seen that the alleged detainee Vidya is a free person and that she desires voluntarily to go with the petitioner, we record the submission of the petitioner and Vidya that they are married. We direct them to produce before the Registrar General of this Court, the copy of certificate under the provisions of the Common Rules within a period of two months from now. Having regard to the pendency of this litigation, any delay in making the application before the registering authority will be condoned by the officer concerned. We release Vidya from police surveillance and also from housing in Santhi ni kethan.

2. We record our appreciation for the earnest efforts taken by the learned mediator and also the support given by KELSA, including financial, for housing and management of the girl in the Santhinikethan during the course of this proceedings.

3. Before parting, we could place on record that this Court is dissatisfied with the manner in which the police concerned had dealt with the situation, we were told at an earlier hearing date that there was a man-missing case filed by the father of Vidya and that the petitioner and Vidya came to the police station and thereafter, vidya was left to go with her father, in fact, the learned Government Pleader had with him written instructions in this regard, we were surprised at this course of action, in terms of the provisions of the Kerala Police Act, Code of Criminal Procedure, Police Manual and other relevant laws, the police officer could not have let Vidya go with her father without she being produced before the jurisdictional Judicial Magistrate, we say this more emphatically because Vidya candidly tells us that she did not desire to go with the father but wanted to be with her husband Rajesh, however that the police wanted her to go with her father.

4. We have seen certain allegations in this writ petition suggesting that extra-constitutional interference appears to discreetly involve in the police system in the centre concerned. There were interference and influence, pleads the petitioner. We would also say that it is for the higher-ups in the police hierarchy having jurisdiction over the area to look into this, we are told today by the learned Additional Director General of Prosecutions that he has discussed the matter with the District Police Chiefs, Kollam and Kollam Rural and they have issued instructions as to the action that may have to be taken, having regard to the peculiar facts and circumstances. This is more important because, as of now, the stand of the police is essentially a somersault. They now say that there was no man-missing case registered at the instance of Vidya's father.

5. We would emphatically remind all police officials in every rank that no police officer shall appear in any court, in the course of his official duties, otherwise than in full uniform as prescribed for the post that he holds, unless otherwise permitted or ordered, we say this here and now since we have seen a situation to the contrary in this case. A police constable, who was not from the station from which the case was stated to have been generated, had come to this Court, not in uniform, and attempted to instruct the learned Government Pleader during the course of the hearing. Having regard to the assurance given to us by the learned Additional Director General of Prosecutions, we are sure that the State Law officers' machinery, including the Directorate of Prosecutions, will appropriately guide the higher-ups so as to ensure that such incidents do not occur in future in any court and appropriate action is taken against those concerned. This order shall also be brought appropriately to the notice of the State Police chief. The writ petition is ordered accordingly.