
(2014) 02 KL CK 0162
In the High Court Of Kerala
Case No : W.P. (Crl.) No. 76 of 2014

Sabu K. Eliyas

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 24-02-2014

Acts Referred:

Citation : (2014) 1 KHC 804 : (2014) 2 KLJ 556

Hon'ble Judges : Antony Dominic, J;Anil K. Narendran, J

Bench : Division Bench

Advocate : S. Nidheesh, Advocate for the Appellant; K.I. Abdul Rasheed, Addl. Director General of Prosecution, K. Balachandran (Mangalath), Rajesh Nair and Bijoy Chandran, Advocate for the Respondent

Judgement

Antony Dominic, J.—The petitioner filed this Writ Petition alleging that his daughter Renu Merin Sabu, aged 18 years, a plus two student, is being illegally detained by the 4th respondent since 10/02/2014. Considering the above allegations, this Court on 17/02/2014 ordered production of the detinue before us. Accordingly, the detinue was produced before us today. We interacted with the detinue and in answer to our questions, she told us that she left with the 4th respondent voluntarily and that she and the 4th respondent got married on 19/02/2014. The counsel appearing for the 4th respondent also submitted that the marriage was registered before the Registrar (Nedumudi Grama Panchayat) under the Kerala Registration of Marriages (Common) Rules, 2008. The certificate of marriage dated 20/02/2014 was also made available for our perusal.

2. The disclosure made by the detinue shows that the petitioner's allegation that his daughter was forcibly taken by the 4th respondent and that she is being illegally detained by him are incorrect. If that be so, the Writ Petition with the prayer for a writ of habeas corpus cannot be entertained and is therefore dismissed. According to us, the marriage allegedly solemnised on 19/02/2014 between the parties is not legally a valid one. When this was indicated to the counsel for the 4th respondent, he has undertaken before us that necessary

action will be taken to get the marriage between the 4th respondent and the detainee registered under the Special Marriage Act. We record the said submission.

It needs to be stated that a certificate of marriage issued under Rule 11(1) of the Kerala Registration of Marriages (Common) Rules, 2008 was produced before us. This certificate shows that the marriage between the detainee and the 4th respondent took place on 19/02/2014 and the place of marriage is shown as CPI (M) Local Committee Office, Nadubhagom, Nedumudi Village, Kuttanadu Taluk, Alappuzha District. For registration under the Rules, a marriage should either be solemnised before a Marriage Officer appointed under any statutory provisions or as per religious rites. These are required to be stated in the memorandum which is to be prepared in duplicate by the parties to the marriage in Form No. 1, appended to the Rule. Insofar as this case is concerned, the marriage having been solemnised in the CPI (M) Local Committee Office, the requirement of a marriage either before the Marriage Officer or the religious authority is not satisfied. Therefore, this kind of a marriage should not have been registered under the Rules. We also have to add that in several cases of this nature, such certificates are being produced before this Court to prove marriage between the parties. This situation calls for the immediate attention of the authorities concerned so that appropriate instructions could be given to the Marriage Officers under the Rules in order to prevent them from continuing this illegality. Therefore, we direct the Registry to forward a copy of this judgment to the Secretary to Government, Local Self Government Department, who shall issue appropriate instructions in the matter.