
(2010) 08 KL CK 0218

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 196 of 2010 (S)

Sankar Das G.

APPELLANT

Vs

Ismail N.A. and Others

RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0218

Hon'ble Judges : R. Basant, J;M.C. Hari Rani, J

Bench : Division Bench

Advocate : Krishnadas P. Nair, for the Appellant; Dinesh Mathew J. Muricken, for the Respondent

Judgement

R. Basant, J.—This judgment must be read in continuation of our earlier orders in this case resting with the order dated 02/07/2010.

2. Today when the case is called, the petitioner is present. The alleged detainee is also present. Counsel representing them are also present. We are informed that from the last date of posting, i.e. from 02/07/2010 the spouses are residing separately. They have not been able to settle all their disputes. The alleged detainee offers to go with the petitioner; but the petitioner is unable to take her with him.

3. We are now convinced that the alleged detainee is not under any illegal detention or confinement. She is willing to go with the petitioner; but the petitioner is unable to take her with him. In these circumstances, we are satisfied that this writ petition need only be dismissed.

4. In the result,

a) This writ petition is dismissed.

b) The alleged detainee is permitted to leave the Court along with her parents, i.e. the 1st respondent and his wife.

ORDER

5. The petitioner has come to this Court with this petition for issue of a writ of habeas corpus to search for, trace and produce his wife Salini, who, he apprehended, is under the illegal detention and confinement of respondents 1 and 2. The petitioner and Salini (her former name is Ibina) were in love. The petitioner is aged 28 years and Salini is aged 23 years. They belong to different religions. The petitioner is a Hindu by religion and the alleged detainee was a Muslim by religion. They decided to get married and to facilitate an early marriage Salini converted from Islam to Arya Samaj on 19/02/2010 and their marriage took place on the same day in accordance with Arya Samajam rites. They are thus wife and husband. From 19/02/2010 to 10/05/2010, they allegedly lived together. On that day, according to the petitioner, the alleged detainee was forcibly taken away to the house of her parents. He alleged that she continues under illegal confinement and detention there.

6. This petition was filed on 28/5/2010. It was admitted on the same day. The case was posted to this date.

7. Today when the case is called, the petitioner is present. He is represented by a counsel. We find that his father Gopinathan Pillai, mother Vanaja and brother Sarath have also come to court along with him. The 1st respondent along with his wife Ramla are also present. The 1st respondent is represented by a counsel. Along with the 1st respondent, the alleged detainee Salini alias Ibina has also come to court. As Salini comes along with/in the custody of her parents, we allowed the alleged detainee to remain in the chamber with opportunity to interact with her husband, the petitioner herein, as desired by her. After such interactions, we interacted with the alleged detainee after lunch recess at 1.45 p.m. We initially interacted with her alone. Subsequently, we interacted with her in the presence of her parents. We interacted with the petitioner alone initially and later in the presence of his parents and brother. The learned Counsel for the petitioner and the 1st respondent and the learned Government Pleader were also present.

8. There are rival assertions about the circumstances under which the alleged detainee now happens to be in the house of her parents. We find it unnecessary to go into all those inconsequential disputes. Suffice it to say that, after detailed discussions and interactions, the parties appear to have come to a harmonious decision. They pray that the said decision may be recorded and appropriate further directions may be issued.

i) The alleged detainee and the petitioner want to go together and live as husband and wife.

ii) The parents of the alleged detainee accept the marriage between the alleged detainee and the petitioner. They state before us categorically that they are willing to accept the marriage of the petitioner and the alleged detainee and the conversion of their daughter to Hinduism and their marriage as they have no

other way. They categorically state that they have no intention to re-convert her daughter or convert the petitioner to Islam. They only state that they will be happy if the couple now live happily in their present situation.

iii) The parents of the petitioner and his brother accept the marriage between the petitioner and the alleged detainee. It is agreed that the petitioner along with the alleged detainee shall go along with the parents of the petitioner and his brother. It is agreed that they shall be suitably accommodated together till the next date of posting by the parents of the petitioner.

iv) The case shall be called again on 02/07/2010, by which date, the arrangements reached regarding residence of the petitioner and the alleged detainee shall be conveyed to the court.

9. The petitioner agrees that the parents of the alleged detainee can contact him and the alleged detainee at his Mob. No. 9567157425 and that he will always keep the mobile phone in live mode to enable the parents of the alleged detainee to contact him and the alleged detainee whenever they want.

10. Call on 02/07/2010. The petitioner, his parents and brother, the alleged detainee and her parents shall all appear before this Court on 02/07/2010 at 1.45 p.m.