
(2010) 03 KL CK 0065

In the High Court Of Kerala

Case No : Writ Petition (Criminal) No. 179 of 2009 (S)

Smt. Shervin

APPELLANT

Vs

Sub Inspector of Police and Others

RESPONDENT

Date of Decision : 31-03-2010

Acts Referred:

Citation : (2010) 03 KL CK 0065

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

Bench : Division Bench

Advocate : T.M. Mohammed Yousuff, for the Appellant; Government Pleader, for the Respondent

Judgement

R. Basant, J.—This judgment must be read in continuation of the earlier orders passed by this Court in the matter.

2. This petition was filed on 08.05.2009 by the petitioner, the mother of a minor girl by name Sheba. At the time when the petition was filed, she was of 17 years, having been born on 04.03.1992. The petitioner complained that her minor daughter was under illegal detention and confinement of respondent Nos. 7 and 8. The 7th respondent is a young man, aged about 23 years. The 8th respondent is the father of the 7th respondent. This petition was admitted on 08.05.2009. The matter has subsequently been posted from time to time and directions were issued. The alleged detainee, the minor girl Sheba, was produced before court on 02.06.2009. As the girl was a minor and was a student of Al Ameen Public School, Edappally, it was directed that the girl shall reside in the school hostel with opportunities for her mother, the petitioner herein, to interact with her in regular frequency. As agreed, it was directed that the case can be called after the girl attains the majority.

3. The alleged detainee had continued her studies at the Al Ameen Public School, Edappally. On 04.03.2010, she has attained majority. She has been brought to Court today. The petitioner and her Counsel are present. Respondent Nos. 7 and

8 have appeared before Court along with their Counsel. The brother of respondent No. 8 - Mr. Ibrahimkutty, is also present.

4. We interacted with the alleged detainee, now a major girl aged above 18 years, alone initially. She sticks to her stand that she wants to go along with the 7th respondent herein. The mother of the alleged detainee, the petitioner herein, asserts that she is not able to accept the relationship between the 7th respondent and the alleged detainee. In the wake of adamant insistence of the alleged detainee that she wants to go with the 7th respondent, the petitioner prays that, in that event, the alleged detainee can be permitted to go along with the 7th respondent, but it may at least be insisted that the marriage between the 7th respondent and the alleged detainee must take place in accordance with the provisions of the Special Marriage Act. The petitioner is unable to accept the relationship between the alleged detainee and the 7th respondent. But submits that she now only hopes that the life of the alleged detainee would be peaceful and she will not face any problems. It is to secure her life that the petitioner prays that the marriage under the Special Marriage Act may be insisted.

5. We have interacted with the alleged detainee alone initially. Later we interacted with her along with the petitioner. We subsequently interacted with the alleged detainee in the presence of the petitioner and her sister. Subsequently we interacted with the 7th and 8th respondents and Mr. Ibrahimkutty, the brother of the 8th respondent. The learned Counsel for the petitioner and the Counsel for the 7th and 8th respondents were also present. The learned Government Pleader is also present before the Court.

6. The 7th and 8th respondents accept the request of the petitioner that the marriage shall be solemnised in accordance with the provisions of the Special Marriage Act. They want religious rites also to be performed, but undertake before the Court that cohabitation of the 7th respondent and the alleged detainee shall be permitted and shall take place only after the marriage is solemnised under the provisions of the Special Marriage Act. The petitioner expresses doubt as to whether this undertaking shall be respected by respondents 7 and 8. We are satisfied that the said undertaking can be accepted. All concerned, including the alleged detainee, agree that the alleged detainee can today be permitted to go along with the 7th respondent. The case can be posted after the vacation for production of the certificate of marriage under the Special Marriage Act. Till the marriage takes place, there shall be no cohabitation between the alleged detainee and the 7th respondent.

7. In the result:

This Writ Petition is dismissed. The alleged detainee, who is now an adult woman, is permitted to leave the Court along with the 7th and 8th respondents accepting the undertaking made by the 7th and 8th respondents.

8. Call this petition again on 17.05.2010. On that day, the alleged detainee and the 7th respondent shall be present. They shall produce before the Court the

original along with a photocopy of the marriage certificate issued under the Special Marriage Act. A copy of the certificate shall be handed over to the petitioner on that date.

ORDER

08.05.2010

1. The learned Government Pleader after taking instructions reports that the alleged detainee is a student of class XII and that her Board Examinations are in progress. Such examinations will continue till the end of this month, ie. 29.03.2010.

2. Call this petition again on 31.03.2010. The alleged detainee shall be present before the Court. The learned Government Pleader shall make arrangements to ensure that the alleged detainee is made available before the Court on that date.