
(2010) 01 KL CK 0074

In the High Court Of Kerala

Case No : Writ Petition (Criminal) . No. 482 of 2009 (S)

Viswambaran. T.S.

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 04-01-2010

Acts Referred:

Citation : (2010) 01 KL CK 0074

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

Bench : Division Bench

Advocate : A.T. Anilkumar, for the Appellant; V. Rajendran, for the Respondent

Judgement

R. Basant, J.—This judgment must be read in continuation of the earlier orders passed by us resting with the order dated 22.12.2009.

2. We have adverted to the facts in detail in the order dated 4.12.2009. Today when the case is called, the petitioner and his counsel are present. The wife of the petitioner has also come along with the petitioner.

3. The alleged detainee, the daughter of the petitioner has also come to Court from Santhinikethan Hostel, where she was accommodated from 4.12.2009 as per the order passed by us on that date. The 5th respondent is not present personally, but he is represented by a counsel. The learned Counsel for the 5th respondent takes the stand that the 5th respondent has nothing to do with the alleged detainee.

4. As directed by us in the order dated 22.12.2009, the details of the employment of the alleged detainee are furnished by the alleged detainee in the affidavit filed in support of I.A. No. 26/2010, by her today . According to her, she has now secured employment with M/s Bajaj Allianz Life Insurance Company Ltd., 3rd Floor, Ravi's Arcade, Fotofast Building, Padma Junction, Kochi-35. She has joined the said job on 18.12.2009 and she continues to work in that establishment. According to her, she now wants to shift her residence from Santhinikethan Hostel to the Sadanam Hostel, where she hopes to secure

accommodation. Her employer is also offering accommodation to her and that option is also available to her, she submits.

5. In this petition for issue of a writ of habeas corpus, we are primarily concerned with the question whether the alleged detainee is under illegal confinement or detention. She is a woman aged above 24 years, she having been born on 31.5.1985. We are satisfied that the alleged detainee is not under any illegal confinement or detention. The learned Government Pleader after verifying the information that was furnished to him by the counsel for the alleged detainee asserts that the alleged detainee has now secured employment as alleged by her and is attending that institution. The petitioner is still not satisfied about the statement of the alleged detainee that she has secured employment. According to him, his verification reveals that the alleged detainee has not secured any such employment. It is his apprehension that the alleged detainee may continue her illicit relationship with the 5th respondent.

6. As already stated, in this petition for issue of a writ of habeas corpus, we are primarily concerned with the question whether the alleged detainee is illegally detained or confined by the 5th respondent, as alleged by the petitioner. We are satisfied that she is not. She asserts and the counsel for the 5th respondent repeats that there is absolutely no relationship between the alleged detainee and the 5th respondent. We need not say whether we believe and accept the said statement or not. At any rate, we are satisfied that the alleged detainee is not under any illegal detention or confinement. We are in these circumstances satisfied that this petition can now be dismissed. We are satisfied that the alleged detainee, aged more than 24= years is more than competent to manage her affairs on her own.

7. In the result:

(a) this Writ Petition is dismissed.

(b) the alleged detainee is permitted to leave the Court to pursue whatever course she thinks is best.

(c) The request of the alleged detainee to shift her residence from the Santhinikethan Hostel, is accepted. The authorities of Santhinikethan Hostel shall accommodate the alleged detainee for a further period of three days, if requested by her on condition that she satisfies the necessary requirements of payment, etc.

8. The learned Government Pleader shall communicate the order to the Hostel authorities forthwith.

ORDER

04.12.2009

1. 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 daughter Devikrishna, aged

24 years, who he apprehended was being illegally detained and confined by the 5th respondent. According to the petitioner, the 5th respondent is a married man with two children and he is having an improper relationship with the alleged detainee. He came to Court raising the grievance that the police have not succeeded in tracing his daughter, the alleged detainee. According to him she was detained against her wishes and desire by the 5th respondent.

2. This petition was filed on 18.11.2009. It was admitted on 19.11.2009. The case was posted to 24.11.2009.

3. This order must be read in continuation of the earlier order dated 24.11.2009. The police was directed to ensure that a proper investigation is conducted and the alleged detainee is traced.

4. Today when the case is called, the petitioner is present along with his counsel. The 5th respondent is represented by a counsel. The alleged detainee, it is stated by the police, had appeared before the police along with some others and she has been brought to Court today by the police.

5. We wanted the alleged detainee to remain in the Chamber without opportunity for anyone to influence her. In the meantime, we permitted the petitioner to interact with his daughter, the alleged detainee.

6. After lunch recess, we interacted with the alleged detainee separately initially and later in the presence of the petitioner. Subsequently, we interacted with her in the presence of the counsel for the 5th respondent. The 5th respondent is not present before Court today. The learned Government Pleader was also present. The learned Counsel for the 5th respondent submits that if so directed by the Court, he shall appear before Court at any time. It is also submitted by the learned Counsel for the 5th respondent that the 5th respondent has nothing to do with the alleged detainee and that he has not illegally detained or confined her.

7. The alleged detainee Devikrishna states before us that she is aged 24 years - she having been born on 31.5.1985. According to her, she has passed the plus two course and has subsequently taken Diploma in Telecommunication. She states before us that she does not have any improper relationship with the 5th respondent. She knows the 5th respondent. He is distantly related to her (this assertion is denied by the petitioner). There was unkind allegations raised against her by the wife of the 5th respondent that she is having illicit relationship with the 5th respondent. Her father, the petitioner is addicted to alcohol and she found it difficult to continue to reside at her native place and it is in these circumstances that she desperately had to leave her home. Some friends of hers helped her and she now has taken employment at Pazhani, Tamil Nadu. She submits that she was employed by M/s.Computech and is residing in a hostel by name "Murugalayam" at Pazhani. A friend of hers, who studied with her helped her to secure this temporary employment and residence. She is not under the illegal detention or confinement of anyone, much less, the 5th respondent. According to her, she has no relationship with the 5th respondent. We take note

of her statements.

8. The petitioner offered to take the alleged detainee with him. But the alleged detainee emphatically turns down that offer and submits that she does not want to return to her native place. In response to a specific query by this Court, the alleged detainee states that she is not really interested to return to Pazhani now. She prays that this Court may help her to find accommodation at Kochi and give her permission to secure an employment for herself. If given some time, she will secure an employment for herself and shall be able to stand on her own legs and lead a respectable life, she submits.

9. The learned Counsel for the petitioner submits that the petitioner is willing to ensure that his daughter is well accommodated in a respectable hostel at Kochi and is willing to pay the requisite expenses for the same. He has no objection in the alleged detainee residing in such hostel and attempting to find out an employment for herself.

10. At the end of the discussions, we are happy to note that the petitioner/father and the alleged detainee/daughter have come to certain agreement and understanding. Accordingly, we issue the following directions in terms of the agreement reached by them.

(i) The alleged detainee shall be accommodated at the Santhinikethan Hostel, Pachalam, Kochi. She shall be permitted by the hostel authorities to attempt to get an employment for herself. The petitioner agrees to pay the expenses for such accommodation of the alleged detainee at the Santhinikethan Hostel.

(ii) This petition shall be called again on 04.01.2010. On that day, the alleged detainee shall inform this Court whether she has succeeded in securing any employment.

11. We make it clear that we are satisfied that no writ of habeas corpus need be issued, but this Court is resorting to this arrangement considering the unhappy plight of the alleged detainee and the need for her to be respectably accommodated until she is able to find employment for herself. We are happy to note that the petitioner/father has taken up a very constructive and helpful attitude to help his daughter, though she does not accept his offer to take her with him to his native place.

12. Call on 04.01.2010.

13. The petitioner prays and the alleged detainee agrees and it is observed that the petitioner and his wife, the mother of the alleged detainee, shall be at liberty to go and visit the alleged detainee at the Santhinikethan Hostel at any time, subject to the rules of the hostel.