

Telma Antony Vs The Superintendent of Police, The Circle Inspector of Police and The Principal

Court: High Court Of Kerala

Date of Decision: May 21, 2010

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

Bench: Division Bench

Advocate: M.H. Hanis, for the Appellant; No Appearance, for the Respondent

Final Decision: Dismissed

Judgement

1. The petitioner has come to Court complaining that her daughter Samantha Maria, a girl aged 18 years (born on 20.12.1991), is missing. She

was missing from 10.04.2010. Police investigation did not help the petitioner to trace her daughter and it was, in these circumstances, that she

came to Court with this petition on 19.04.2010.

2. When this petition came up for admission on 20.04.2010, notice was issued to the 3rd respondent. Respondent Nos. 1 and 2 were directed to

investigate the matter and file a report within two weeks. When this petition came up for admission hearing on 20.05.2010, the learned

Government Pleader reported that the alleged detainee was produced before the Magistrate and after confirming that the alleged detainee is not

under any illegal confinement, the Magistrate had permitted her to leave the court. As the petitioner complained that she had obtained no

opportunity to meet her daughter after 10.04.2010 and apprehended that her daughter is under confinement, we directed the alleged detainee

through the learned Government Pleader to appear before this Court today.

3. Today when the case is called, the alleged detainee is present. Jackson, the person with whom she is said to be in love, has also come to Court.

He is represented by a Counsel, Advocate George Joseph, though he has not filed a vakalat. The said Jackson is not formally arrayed as a party

and that is the reason why no vakalat has been filed, it is submitted.

4. As the alleged detainee comes from her alleged detention, we thought it proper to allow the alleged detainee to remain alone without opportunity

for the said Jackson and others to influence her. We permitted the petitioner to interact with her daughter in the Chamber.

5. After the lunch recess at 1.45 p.m. when the matter was taken up in the Chamber, we initially interacted with the alleged detainee alone. Later

we interacted with the alleged detainee in the presence of her mother. Later we interacted with her in the presence of the said Jackson. The learned

Counsel for the said Jackson, the learned Counsel for the petitioner and the learned Government Pleader were also present.

6. The alleged detainee stated categorically that she is not under any illegal confinement or detention. According to her she is in love with the said

Jackson, who is a neighbour and whom she knows from her early childhood. Jackson is respectably employed and is in a position to look after

her. She and the said Jackson have decided to get married to each other. She is a student of Nursing. She has passed her Plus Two course.

Jackson is employed in the Cochin Shipyard. The alleged detainee, an adult woman having crossed the age of 18 years, states unambiguously

before us that she wants to return from Court along with the said Jackson. Jackson and the alleged detainee submit that they have already given

notice under the Special Marriage Act to get their marriage solemnised and the marriage can be solemnised on any day now. It is submitted that in

fact they wanted to get their marriage solemnised and registered under the Special Marriage Act today. But because of the obligation to appear

before this Court, they have not been able to proceed to the Marriage Officer.

7. The petitioner asserts that she is unable to accept the relationship between the alleged detainee and the said Jackson. She was given ample time

to interact with her daughter. She now says that if the alleged detainee, even after such interactions with her, wants to go along with the said

Jackson, she may be permitted to go with him. It may be insisted that they enter into legal matrimony and produce certificate to confirm that they

have been so married. She requests the Court to do at least that for a helpless mother like her.

8. We have considered all the circumstances. In a petition for issue of a writ of habeas corpus, we are primarily concerned with the question

whether the alleged detainee is confined or detained illegally and against the wishes of such detainee. We are convinced that the alleged detainee, an

adult major woman having crossed the age of 18 years, has taken an informed decision to get married to the said Jackson. We are convinced that

she is not under any illegal confinement or detention. In these circumstances, we respect her decisional autonomy. Notwithstanding the reluctance

of the petitioner, her mother, to accept her relationship with the said Jackson, she wants to get married to him. She will be permitted to act

according to her decision.

9. Mr. Jackson submits that his parents and family members are agreeable to his marrying the alleged detainee and they have no objection.

10. The alleged detainee and the said Jackson agree that they shall produce the marriage certificate to show that their marriage has been solemnised

under the Special Marriage Act on the next date of posting and shall furnish to the petitioner a copy of such certificate. We accept that submission.

11. In the result:

a) This Writ Petition is, in these circumstances, dismissed.

b) We accept the submission of the alleged detainee and the said Jackson that they shall produce before Court the marriage certificate to confirm

that they have entered legal matrimony, along with a copy of that certificate for being furnished to the petitioner.

12. Call this petition again on 04.06.2010. On that day, Jackson and the alleged detainee shall appear before Court along with the marriage

certificate to prove solemnisation of their marriage. A copy thereof shall also be produced for being furnished to the petitioner.