

(2010) 05 KL CK 0082

High Court Of Kerala

Case No: Writ Petition (Criminal) No. 177 of 2010 (S)

A.V. Saleem

APPELLANT

Vs

The Superintendent of Police
and Others

RESPONDENT

Date of Decision: May 28, 2010

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

Bench: Division Bench

Advocate: M. Muhammed Shafi, for the Appellant; George Karithanam Varghese, for the Respondent

Final Decision: Allowed

Judgement

R. Basant, J.

The petitioner has come to this Court for issue of a writ of habeas corpus to search for, trace and produce his minor daughter Fathima, aged 16 years (date of birth: 25/3/1994). She has already passed the S.S.L.C. examination. She was found missing from 06/05/2010. Crime was registered on 07/05/2010 and the petitioner had come before this Court on 18/5/2010 as his minor daughter was not traced by them. It was the apprehension of the petitioner that the 3rd respondent, a young autorickshaw driver aged 22 years, in collusion with his parents, respondents 4 and 5, is illegally detaining and confining the alleged detenu.

2. This petition was admitted on 18/5/2010. The matter came up on 24/5/2010. The alleged detenu was not produced. Accordingly, the case was posted to this date.

3. Today when the case is called, the petitioner and his wife are present. The petitioner is represented by his Counsel. The alleged detenu, Fathima has come to court along with her parents. Respondents 4 and 5 are represented by their counsel.

4. The learned Government Pleader submits that the alleged detenu, along with the 3rd respondent, was traced on 26/5/2010 from Salem. The alleged detenu was produced before the learned Magistrate. She, being a minor and as agreed by her,

the learned Magistrate had allowed the alleged detenu to go with her parents. It is accordingly that the alleged detenu has today appeared in court along with her parents.

5. We interacted with the alleged detenu alone initially and later in the presence of her parents. She is a minor and we note that the alleged detenu is now willing to return along with her parents, with whom she has come to court. She states that she will, at the moment, return with her parents. The question of her marriage shall be decided after she attains the age of 18 years. The petitioner and his wife submit and undertake before this Court that until the alleged detenu attains the age of 18 years, she shall not be given away in marriage and after she attains the age of 18 years, she shall be given in marriage only with her consent. These submissions and undertakings are recorded.

6. The learned Counsel for respondents 4 and 5 submit that the son of respondents 4 and 5, the 3rd respondent, a young person aged 22 years, is now in custody. The learned Counsel prays that it may be ensured that the 3rd respondent is not vexed, harassed and detained unnecessarily. The learned Government Pleader submits that action has been taken against the 3rd respondent in accordance with law. The police are satisfied that there has been no sexual intercourse between the alleged detenu and the 3rd respondent and that the needful shall, in these circumstances, be done in connection with the crime that has been registered, submits the learned Government Pleader.

7. This writ petition is, in these circumstances, allowed. The alleged detenu is permitted to leave the court along with her parents, as desired by her. We repeat that we have specifically recorded and accepted the undertaking of the petitioner and his wife that the alleged detenu shall not be given away in marriage till she attains the age of 18 years and that thereafter she shall be given away in marriage only with the consent of the alleged detenu.