

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE PIUS C.KURIAKOSE

&

THE HONOURABLE MR.JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 30TH DAY OF NOVEMBER 2012/9TH AGRAHAYANA 1934

WP(Crl.).No. 595 of 2012 (S)

PETITIONER(S) :

LANEESH L., AGED 25 YEARS
S/O LAKSHMANAN, VALLUTHARA HOUSE, VAIKKOM P.O.
VAIKKOM P.O. VAIKKOM, KOTTAYAM DISTRICT.

BY ADV. SMT.DIJI.K.DASAN

RESPONDENT(S) :

1. STATE OF KERALA,
REP. BY SECRETARY, HOME DEPARTMENT
GOVT. SECRETARIAT
THIRUVANANTHAPURAM. PIN:695 001.
2. DIRECTOR GENERAL OF POLICE,
POLICE HEADQUARTERS,
THIRUVANANTHAPUAM. PIN:695 001.
3. SUB INSPECTOR OF POLICE,
VAIKOM POLICE STATION, VAIKOM, PIN:686 141.
4. VIJAYA KUMAR,
THALIYARATH HOUSE, THEKKENADA P.O., VAIKOM
KOTTAYAM DISTRICT PIN:686 141.

ADDL.5. THE DISTRICT POLICE CHIEF,
KOTTAYAM
(ADDL.R5 IS IMPEADED SUO MOTU AS ADDL.R5 AS PER
JUDGMENT DATED 30/11/2012.)

R1 TO R5 BY ADV. ADDL.DGP. SRI.TOM JOSE PADINJAREKKARA
R4 BY ADV. SRI.K.REGHU KOTTAPPURAM

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON
30-11-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.595/2012

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: PHOTOCOPY OF THE PETITION DATED 22.11.2012 SUBMITTED BEFORE
THE 3RD RESPONDENT BY THE PETITIONER.

RESPONDENTS' EXHIBITS NIL

/TRUE COPY/ P.A. TO JUDGE.

**PIUS C.KURIAKOSE &
BABU MATHEW P.JOSEPH JJ.**

W.P.(CrI.) . NO.595 OF 2012

Dated this the 30th day of November, 2012

JUDGMENT

Pius C.Kuriakose,J

The District Police Chief, Kottayam, is impleaded suo motu as additional respondent No. 5. The Registry will carry out corrections in the cause title.

2. On considering this writ petition filed by the petitioner, who alleges that his love one Varsha Vijayakumar, the daughter of the 4th respondent, is illegally detained against her wishes , we on 26/11/2012 issued the following order;

"Not admitted. Sri.Tom Jose Padinjarekkara, the Addl. State Prosecutor takes notice on behalf of R1 to R3. Sri.Tom Jose Padinjarekkara will seek instructions from the concerned police officer as to the correctness of the various allegations and accusations in this writ petition. Issue notice on admission by special messenger to R4. R4 is directed to bring Varsha Vijayakumar, his daughter, before this court at 10.15 a.m. on

30/11/2012 and also show cause why the above order for production should not be made absolute.”

2. Today, Varsha Vijayakumar accompanied by her parents came to this court. We interacted with the detinue as well as her parents. We interacted with the petitioner who is also present before this court. Varsha told us that she is presently studying in St.Antony's College, Kanjirapally for B.C.A. She further told us that she is staying in the Carmel Hostel conducted by Rev. Sisters. According to her, she has much love towards the petitioner. To our specific query as to whether she has love towards her parents she answered in the positive. We are convinced that, in view the fact that Varsha is attending the college and staying in the hostel, the allegation that Varsha is being detained by the 4th respondent illegally against her wishes is absolutely unfounded.

3. The Additional State Prosecutor Sri.Tom Jose Padinarekkara submitted that Session Case No.275/2012 is pending before the Session Court, Kottayam and the petitioner is the first accused in that case. Sri.Vijaya Kumar, the 4th respondent, told us that there is considerable harassment on his

daughter by the petitioner and particularly the petitioner's mother. On a recent occasion the petitioner accompanied by his mother and two other persons including an advocate, whose name was not disclosed even to the alleged detainee, would go over to Kanjirappally and compel the detainee to send SMS to the petitioner, so as to pave the way for institution of this writ petition.

4. Sri. Reghu Kottapuram, the learned counsel for the 4th respondent, submitted that as the allegation of illegal detention is without any basis, this court may straight away dismiss this writ petition.

5. Smt.Diji K.Dasan learned counsel for the petitioner submitted that left to herself Varsha loves the petitioner very much and she should be allowed to join him so that she and she can get married.

6. We do not think that the suggestion of Smt.Diji K.Dasan is acceptable. Varsha Vijayan is pursuing B.C.A. course in St.Antony's College, Kanjirappally. In her interest she should complete the studies and secure an employment before thinking in terms of getting married. We are not prepared to permit her

to join the petitioner who is facing trial in a session case wherein the detinue is the de-facto complainant. The main question which arises for decision is whether the writ of Habeas Corpus sought for should be granted. The above question has inevitably to be answered against the petitioner. We therefore dispose of this writ petition with the following orders;

i). The writ of Habeas Corpus sought for is declined.

ii). The 4th respondent and his wife are directed not to impose any marriage to which Varsha is opposed before she completes her studies and ideally secures an employment .

iii). The Additional 5th respondent is directed to do the needful by issuing appropriate direction to the police officers including the Station House Officer, Kanjirappally so that there is no trouble whatsoever to the stay of Varsha in the Carmel Hostel and her studies at St.Antony's college from the part of the petitioner , his mother or anybody attached to the petitioner.

iv). There will be a direction to the petitioner also that he shall not cause any disturbance to Varsha under the guise of love or anything else lest Varsha should not be able to pursue her studies and secure employment as indicated herein.

Issue copy of this judgment to the State Prosecutor for communication to the District Police Chief.

Sd/-

PIUS C.KURIAKOSE,
JUDGE
Sd/-

BABU MATHEW P.JOSEPH,
JUDGE.

dpk

/True copy/ P.A to Judge.

