



2024/KER/37105

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
&
THE HONOURABLE MR. JUSTICE P.M.MANOJ
MONDAY, THE 3RD DAY OF JUNE 2024 / 13TH JYAISHTA, 1946

WP(CRL.) NO. 565 OF 2024

PETITIONER:

ALTHAF J MUHAMMED
AGED 26 YEARS
S/O, K JALEEL, THOPPIL VEEDU, PANAPPETTY,
PORUVAZHY PO, KOLLAM, KERALA., PIN - 690520

BY ADVS.
NOBEL RAJU
C.R.JAYAKUMAR
ALEENA JOSE

RESPONDENTS:

- 1 THE DISTRICT POLICE CHIEF
OFFICE OF THE DCP, THRISSUR, PIN - 680125
- 2 THE STATION HOUSE OFFICER
OLLUR POLICE STATION, THRISSUR, PIN - 680360
- 3 HARIDAS P B
AGED 58 YEARS
PUTHANPURAYIL HOUSE, ARUMKULANGARA, EDAKUNNI,
THAIKATTUSSERY PO THRISSUR, PIN - 680306

BY ADVS.
T. SANJAY
SANIL KUMAR G. (K/2138/2019)

OTHER PRESENT:

SRI P M SHAMEER, GP.

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR FINAL
HEARING ON 03.06.2024, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



JUDGMENT

Raja Vijayaraghavan, J.

The petitioner is a Civil Engineering graduate, pursuing his Masters in Transportation Systems, at the Technical University, Munich, Germany. He is also working as a part-time Research Assistant at the University. He states that he is in an intimate relationship with Ms. X, the daughter of the 3rd respondent. He states that Ms. X is a postgraduate (M.Tech) and is employed as a Project Engineer at NATPAC, Thiruvananthapuram. He states that the petitioner as well as the 3rd respondent belongs to two different religions, and the 3rd respondent is opposed to the relationship. According to the petitioner, Ms. X is detained against her wish and will by the 3rd respondent.

3. By order dated 28.05.2024, we ordered the 2nd respondent to ensure the production of the alleged detenu before this Court on 31.05.2024.

4. On 31.05.2024, the detenu interacted with us through video conferencing. She stated before us that she is kept under illegal detention. We ordered the production of the detenu before us.



5. We have interacted with Ms. X, 3rd respondent as well as the petitioner in person. Ms. X stated that she is well-employed at NATPAC, Thiruvananthapuram, and is about 27 years old. She stated that she wishes to go with the petitioner.

6. The Hon'ble Supreme Court in **Shafin Jahan**¹, has held that the pivotal purpose of a writ of habeas corpus is to see that no one is deprived of his/her liberty without sanction of law. It is the primary duty of the State to see that the said right is not sullied in any manner whatsoever and its sanctity is not affected by any kind of subterfuge. The role of the Court is to see that the detenu is produced before it, find out about his/her independent choice, and see to it that the person is released from illegal restraint. What is seminal is to remember that the song of liberty is sung with sincerity and the choice of an individual is appositely respected and conferred its esteemed status as the Constitution guarantees. It is so as the expression of choice is a fundamental right under Articles 19 and 21 of the Constitution, provided the said choice does not transgress any valid legal framework. Once that aspect is clear, the inquiry and determination have to come to an end.

¹ Shafin Jahan v. Asokan K.M., (2018) 16 SCC 368



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7. In **Anuj Garg and Others**², the Apex Court had occasion to hold as under in paragraph 31 of the judgment

“31. ... It is their life; subject to constitutional, statutory, and social interdicts—a citizen of India should be allowed to live her life on her own terms.”

8. We are of the view that parental love or concern cannot be allowed to fluster the right of choice of an adult in choosing a man to whom she gets married.

9. As Ms. X stated that she is illegally confined against her wish by the party respondent, we are of the view that this Writ Petition is only to be allowed. Ms. X is permitted to be set at liberty so that she may join the petitioner.

Sd/-
RAJA VIJAYARAGHAVAN V
JUDGE

Sd/-
P.M.MANOJ
JUDGE

APM/3/6/24

² Anuj Garg and Others v. Hotel Association of India and others, [2008 (3) SCC 1]

