

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE
IMPHAL EAST



Cril Misc (B) Case No. 24 of 2018

Ref: FIR No. 28(1) 2018 SJM PS

u/s 377/365/506/511/34 IPC

1. Km. Udiyarani Thingujam @ Dona about 22 years D/o Thingujam Jeevan Singh @ Hangular Singh, resident of Thongju Pheijaleitong Kakwa, PO Canchipur, PS Singjamei, Imphal East District, Manipur
2. Km. Rojita Laishram @ Tang, aged about 28 years D/o Kulachandra Laishram, a resident of Heirangoithong Ningthemcha Karong, PO Singjamei, Imphal West District, Manipur

-vs-

State of Manipur
through the Officer- In-Charge Singjamei PS/
Imphal West District, Manipur

EXTRACT COPY OF THE ORDER PASSED ON 03/02/2018

Present:

The petitioners with their counsel Shri Rakesh Meihoubam & Ms. Premlata

1. The present application is filed by the petitioners for allowing them to surrender before the court and releasing them on bail forthwith.
2. Register it as Cril Misc Case.
3. Brief facts stated in the petition is that the petitioners are members of Third Gender and both are majors. They started having relationship since September, 2015 and started living together consensually since June, 2016 at the house of the petitioner no. 2. They are also running a grocery shop together to earn their livelihood. The petitioner no. 1 was called by her mother in the month of December, 2016 and she stayed with her mother for a while but she again went back to the petitioner no. 2 and lived with her. The mother of the petitioner made a complaint to the WPS/ IW and pursuant to the complaint, the petitioner no. 2 was arrested and the petitioner no. 1 was handed over to her mother. The parents of the petitioner no. 1 tried to stop her from visiting the petitioner no. 2 and as such there was a quarrel between them. The petitioner no. 1 even took shelter with ITA, an organisation for fighting injustice against the third gender. The petitioner no. 1 and 2 thereafter continued living together. But the mother of the petitioner again lodged a missing report with Singjamei PS and the petitioner no. 2 was again arrested.
4. It is stated both the petitioners are hiding from place to place to avoid further harassment from Singjamei/ PS at the behest of the mother of the petitioner no. 1. Having no alternative the petitioners filed petition before the Hon'ble High Court on 29/1/2018. The Hon'ble High Court was pleased to direct the respondents not to disturb the peaceful existence of the petitioners.

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03/02/2018

5. Perused the record and heard the Ld. Counsel for the petitioners. Ld. Counsel submitted the petitioners may be allowed to surrender before the police and they may be directed to produce them before the court within specified time. There is great apprehension that the police may commit harassment against the petitioners and also the petitioner no. 1 may again be handed over to her mother, hence continuing the harassment and infringing the right of the petitioners to live together as they choose.
6. Perused the record and heard the petitioners and their counsels.
7. On perusal of the record, it is seen that the mother of the petitioner no. 1 had filed a complaint petition before this court stating that the petitioner no. 2 and another had abducted and wrongfully confined the petitioner no. 1 and committed unnatural offence. This court had accordingly forwarded the case for conducting investigation.
8. At this stage, no process was issued by this court for the production or appearance of the petitioner and they are not required before this court in c/w any proceedings pending before this court. Hence surrender and grant of bail is not proper as they are not required by this court to be arrested. Moreover, Ld counsel for the petitioner has submitted before the court during hearing that the petitioner may be allowed to surrender before the Singjamei/ PS and the concerned OC may be given direction to produce them before the court along with necessary direction.
9. The petitioners including the petitioner no. 1 Kumari Udiyarani Thingujam @ Dona who was allegedly abducted and wrongfully confined by the petitioner no. 2 and one Oinam Hemabati (who is also present before the court) appeared before the court and submitted that they are living together with their free consent and they are all majors. The petitioner no. 1 submitted she left with the petitioner no. 2 with her consent.
10. In the light of the facts and circumstances and apprehension expressed by the petitioners on account of their being members of third gender, the following direction are passed:
 - i) In the event of surrender and arrest of the petitioners before the Singjamei/ PS, they are to be produced before the court as per provision of law, subject to the provision of bail.
 - ii) That the case shall be handled by observing the due provision of law without causing harassment and undue inconvenience to the petitioners, keeping in mind that the petitioners are stated to be members of third gender who has been recognized by the Hon'ble Supreme Court as a vulnerable section of society requiring protection. Further, the petitioners are stated to be majors, aged more than 22 years & 28 years respectively, hence, their wish/ consent/ choice on where they want to go or stay is to be respected.

Application is disposed accordingly.

Send extract copy to OC/Singjamei for information & necessary action.

Sd/-
Ningthoujam Lanleima
Chief Judicial Magistrate, Imphal East
Imphal, the 3rd February, 2018

Memo.No. CJM/IE/2018/102

Copy to :
The O.C. Singjamei Police Station
for information and compliance.

03/02/2018
B.C. to

CJM/Imphal East