

Mohan Kumar Vs. State of Kerala

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Court : Kerala

Decided On : Dec-28-2012

Judge : Hon'Ble Mr. Justice Babu Mathew P.Joseph

Appellant : Mohan Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE MR. JUSTICE BABU MATHEW P.JOSEPH FRIDAY, THE 28TH DAY OF DECEMBER 2012 7TH POUSHA 193 Bail Appl..No. 9808 of 2012 () ----- CRIME NO.1437/2012 OF PANDALAM POLICE STATION, PATHANAMTHITTA DISTRICT. PETITIONERS/ACCUSED NO 1-3: ----- 1. MOHAN KUMAR, AGED 5 YEARS S/O KUTTAPPAN NAIR, GEETHA SADHANAM, THONNALLOOR PANDALAM P.O, ADOOR TALUK, PATHANAMTHITTA DISTRICT 2 SARASWATHI AMMA, AGED 7 YEARS W/O KUTTAPPAN NAIR, GEETHA SADHANAM, THONNALLOOR PANDALAM P.O, ADOOR TALUK, PATHANAMTHITTA DISTRICT 3 P.G. GOPAKUMAR, PARAVALIL HOUSE, VALLIKKODE P.O, PATHANAMTHITTA BY ADVS.SRI.M.T.SURESHKUMAR SRI.V.V.RAJA RESPONDENT(S): ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR HIGH CORUT OF KERALA, ERNAKULAM 68203 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28-12-2012, THE COURT ON THE SAME DAY

PASSED THE FOLLOWING: tss BABU MATHEW P. JOSEPH, J.

----- B.A. No.9808 of 2012

----- Dated this the 28th day of December, 2012

ORDER This petition is filed under Section 438 of Cr.P.C. for anticipatory bail.

2. Heard the learned counsel appearing for the petitioners and the learned Public Prosecutor appearing for the respondent. C.D. produced.

3. The petitioners are accused 1 to 3 in Crime No.1437/2012 of Pandalam Police Station. The offence alleged is under Section 498A read with Section 34 of IPC. The allegation is that the first petitioner married the de facto complainant on 17.4.2005 and, thereafter, the accused in this case subjected her to physical and mental cruelty apart from other allegations. The learned counsel for the petitioners submits that the second petitioner, aged 73, is the mother of the first petitioner and the third petitioner is his brother-in-law. The petitioners are innocent of the allegations raised against them. They have no criminal antecedents. The police has registered this case based on a private complaint filed by the de facto complainant in the Court. She has preferred that complaint after B.A.No.9808/2012 :2: the first petitioner filed a petition for divorce against her in the Family Court. She further submits that the petitioners apprehend arrest by the police at any time.

4. The learned Public Prosecutor has opposed this application. The Case Diary shows that the investigation of the case has progressed much. The learned Public Prosecutor has not disputed the fact that the petitioners have no criminal antecedents. On considering the facts and circumstances, the stage of the investigation, the fact that the petitioners have no criminal antecedents, they can be granted anticipatory bail imposing appropriate conditions. Therefore, the petitioners are granted anticipatory bail subject to the following conditions:

1) The petitioners shall surrender before the Investigating Officer on or before 8.1.2013. In the event of their arrest, they shall be released on bail on their executing bonds for Rs.15,000/- (Rupees Fifteen Thousand only) each with two solvent sureties each for the like sum to the satisfaction of the Investigating

Officer.

2) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him or her from B.A.No.9808/2012 :3: disclosing such facts to the Court or to any Police Officer.

3) The petitioners shall make themselves available for interrogation as and when required by the Investigating Officer.

4) The petitioners shall not influence or intimidate the prosecution witnesses nor shall they attempt to tamper with the evidence for the prosecution.

5) The petitioners shall not commit any similar offence while on bail.

6) The petitioners shall not leave India without the previous permission of the concerned Magistrate's Court. This application is allowed as above. Sd/- BABU MATHEW P. JOSEPH, JUDGE. //True copy// P.A to JUDGE okb.

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