

Moidu Vs. State of Kerala

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Court : Kerala

Decided On : Jul-16-2014

Judge : Honourable Mr. Justice K.Abraham Mathew

Appellant : Moidu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW WEDNESDAY, THE 16TH DAY OF JULY 2014 25TH ASHADHA, 1936 Bail Appl..No. 5232 of 2014 ----- CRIME NO. 200/2014 OF VELLAMUNDA POLICE STATION , WAYANAD ----- PETITIONER / ACCUSED: ----- MOIDU C, AGED 48 YEARS, S/O. IBRAYI, CHIRAMBATHIL HOUSE, THARUVANA, PORUNNANNUR AMSOM, WAYANAD DISTRICT. BY ADVS. SRI. KRISHNA PRASAD. S SRI. B. SIBI RESPONDENT / COMPLAINANT : ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, REPRESENTING THE S.I. OF POLICE, VELLAMUNDA POLICE STATION. BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16-07-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Msd. K. ABRAHAM MATHEW, J.

- - Dated this the 16th day of July, 2014

ORDER

Petition filed under Section 439 Cr.P.C. The petitioner is the sole accused in Crime No.200/2014 of Vellamunda Police Station registered for the offences under Sections 324, 354, 376, 452 and 506 IPC.

2. It is alleged that the petitioner had sexual intercourse with his niece on several occasions during 2010-11. He had taken her nude photographs. He used to threaten her showing the photographs. On 12.06.2014 at her residence he assaulted her with a stick and applied chilly paste on her face and other parts of the body. He had threatened to cause the death of the girl's mother if she disclosed the incident of rape to anyone.

3. Head the learned counsel for the petitioner and the learned Public Prosecutor.

4. The petitioner is aged 48 years. The victim was B.A. No.5232 of 2014 -2- aged about 16 years old when the petitioner allegedly committed rape on her on several occasions. She is his niece. Her father is dead. The police was informed of the incident only on 12.06.2014. There was a delay of about 3 years. The reason stated for the delay is that the petitioner had taken the nude photographs of the girl and had threatened that he would kill her mother if she disclosed the incident to anyone. But she gave information to the police when she was admitted to hospital in connection with the incident in which he allegedly beat her with a stick and applied paste of chilly on her face and other parts of the body. The doctor who examined her did not see any injury on her except a minor injury on her neck. There was no evidence of applying chilly paste on her face or any other part of the body.

5. The petitioner has been in custody since 13.06.2014. His further detention is not necessary for completion of the investigation. B.A. No.5232 of 2014 -3- In the result, this application is allowed. (i) The petitioner will be released on bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent

sureties each for the like sum to the satisfaction of the learned Magistrate concerned. (ii) The petitioner shall appear before the investigating officer between 10.30 a.m and 11.30 a.m. on all first and last Saturdays for three months, or till the final report is filed, whichever is earlier. (iii) The petitioner shall not contact or communicate with the victim girl or her mother; nor shall he visit them at their residence. (iv) The petitioner shall not threaten or attempt to influence the witnesses; nor shall he destroy or attempt to destroy the evidence or interfere with the investigation. (v) He shall not leave India except with the previous B.A. No.5232 of 2014 -4- permission of the lower court concerned. If the petitioner violates any of the above conditions, the court of enquiry/trial is empowered to cancel the bail in accordance with the law. Sd/- K. ABRAHAM MATHEW JUDGE
//True copy// P.A. TO JUDGE shg/

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