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Jerin Paul vs State of Kerala

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Court : Kerala Orders

Decided On : Jun-07-2024

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Bail Appl./3337/2024

Appellant : Jerin Paul

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN FRIDAY, THE 7TH DAY OF JUNE 2024 / 17TH JYAISHTA, 1946 BAIL APPL. NO. 3337 OF 2024 CRIME NO.763/2024 OF ERNAKULAM CENTRAL POLICE STATION PETITIONER/ACCUSED: JERIN PAUL, AGED 28 YEARS S/O PAUL VARGHESE, CHALLAKUZHIKKAL HOUSE, THENGANA, PERUMPANACHY P.O., CHANGANASSERY, PIN - 686536. BY ADVS. GEORGE VARGHESE(PERUMPALLIKUTTIYIL) MANU SRINATH NIMESH THOMAS LIJO JOHN THAMPY SAURAV VINOD S.RAJEEV(K/000249/1993) RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,

HIGH COURT OF KERALA, PIN - 682031. 2 STATION HOUSE OFFICER CENTRAL POLICE STATION, ERNAKULAM, OLD RAILWAY STATION ROAD, NEAR, HIGH CT RD, ERNAKULAM, KERALA, PIN - 682018. PUBLIC PROSECUTOR M P PRASANTH THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 30.05.2024 ALONG WITH B.A.NO.3426/2024, THE COURT ON 07.06.2024 DELIVERED THE FOLLOWING: B.A.Nos.3337 & 3426 of 2024 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN FRIDAY, THE 7TH DAY OF JUNE 2024 / 17TH JYAISHTA, 1946 BAIL APPL. NO. 3426 OF 2024 CRIME NO.613/2024 OF THRIKKODITHANAM POLICE STATION PETITIONER/ACCUSED: JERIN PAUL AGED 28 YEARS S/O PAUL VARGHESE, CHALLAKUZHIKKAL HOUSE, THENGANA, PERUMPANACHY P.O., CHANGANASSERY, PIN - 686536. BY ADVS. GEORGE VARGHESE(PERUMPALLIKUTTIYIL) MANU SRINATH NIMESH THOMAS LIJO JOHN THAMPY SAURAV VINOD S.RAJEEV(K/000249/1993) RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031. 2 STATION HOUSE OFFICER HARBOUR POLICE STATION, BRISTOW ROAD, WILLINGDON ISLAND, KOCHI, KERALA, PIN - 682003. BY SENIOR PUBLIC PROSECUTOR SRI RENJIT GEORGE THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 30.05.2024 ALONG WITH B.A.NO.3337/2024, THE COURT ON 07.06.2024 DELIVERED THE FOLLOWING: B.A.Nos.3337 & 3426 of 2024 3

A. BADHARUDEEN, J.

========== B.A.Nos.3337 and 3426 of 2024 ========== Dated this the 7th day of

June, 2024

COMMON ORDER

B.A.No.3426/2024 is at the option of the sole accused in Crime No.613/2024 of Thrikkodithanam Police Station. The same accused, who apprehends arrest in Crime No.763/2024 of Ernakulam Central Police Station, seeks anticipatory bail in B.A.No.3337/2024.

2. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor in detail in both cases. Perused the relevant documents form part of the case records in both crimes.

3. While canvassing anticipatory bail to the petitioner, highlighting his innocence, the learned counsel for the petitioner given emphasis to Crime No.763/2024, registered by Ernakulam B.A.Nos.3337 & 3426 of 2024 4

Central Police Station on 13.04.2024, alleging commission of offences punishable under Sections 354,294(b), 509 and 323 of the Indian Penal Code (`IPC for short).

4. The learned counsel for the petitioner argued that when

the defacto complainant given statement before the police in Crime No.763/2024, she stated about an occurrence on 11.04.2024 and she did not disclose any act of sexual assault. It is also pointed out that when she came to know about the fixation of marriage of the petitioner with another lady, she had given another statement to the Thrikkodithanam police and in the said statement, she disclosed

materials, attracting offence of rape. Relying on the same, Thrikkodithanam Police registered Crime No.613/2024 alleging commission of offences punishable under Sections 354, 376(2)(n) and 506 of IPC. According to the learned counsel for the petitioner, Crime No.613/2024 is an afterthought and the same would go to show that, the said crime got registered with a view to detain the petitioner in custody and to obstruct the marriage of the B.A.Nos.3337 & 3426 of 2024 5 petitioner fixed with another lady on 15.04.2024 at St.Thomas Orthodox Church, Thengana. Accordingly, highlighting the innocence of the petitioner, the learned counsel

pressed for anticipatory bail to the petitioner in both crimes.

5. Whereas the learned Public Prosecutor would submit

that going by the F.I statement in Crime No.763/2024 of Ernakulam Central Police Station, it could be gathered that the accused and the defacto complainant met on 1 p.m on 14.04.2022. In the statement given by the defacto complainant, relationship starting from November, 2022, while the accused was working in Fab India as Marketing Coordinator where the defacto complainant had been working as the Assistant Manager, H.R from February, 2020, with promise to marry the defacto complainant to be gathered. It is also pointed out that as per the F.I statement in Crime No.763/2024, the defacto complainant was brought to the South Railway Station, Kochi by the accused and she was abused by using filthy words and subjected to assault and molestation

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holding on her chest. Therefore, it is argued that the foundation as regards to the love relationship on the promise of marriage is there in the first F.I statement itself. But when the defacto complainant noticed that the accused herein secured the presence of the defacto complainant on 11.04.2024 at South Railway Station to avoid her after abusing and assaulting her and it was noticed that his marriage was fixed on 15.04.2024, the defacto complainant was forced to disclose the entire events of sexual assault, on the promise of marriage, as described in Crime No.763/2024 and therefore, the petitioner herein doesnt deserve bail. Since the allegations are serious, arrest, custodial interrogation and the conduct of potency test of the petitioner are absolutely essential.

6. I have perused the F.I statement given by the defacto

complainant in Crime Nos.763/2024 and 613/2024. The F.I statement in Crime No.763/2024 would show that the said crime was registered alleging commission of offences punishable under Sections 354,294(b), 509 and 323 of the IPC. However, in the F.I B.A.Nos.3337 & 3426 of 2024 7

statement, the defacto complainant stated that at about 1 p.m on 11.04.2024, while the defacto complainant and accused were working in Fab India, they were in alliance and thereafter the accused deviated from the alliance and brought the defacto complainant with promise to solve the problems. When the defacto complainant reached on this promise, she was abused, assaulted and manhandled. Thus the F.I statement in Crime No.763/2024 would indicate that there was a cordial relationship between the defacto complainant and the accused and something which happened during the said relationship required to be solved.

7. Going by the F.I statement in Crime No.613/2024,

registered on the F.I statement recorded soon after registration of Crime No.763/2024, the defacto complainant disclosed the sexual assault at the instance of the accused with promise to marry the defacto complainant. Therefore, non disclosure of the sexual assault in the F.I statement in the first crime by itself is not a reason to disbelieve the allegations in Crime No.613/2024 of B.A.Nos.3337 & 3426 of 2024 8

Thrikkodithanam Police Station. The allegation of sexual assault on the promise of marriage ultimately led to registration of the second crime, which, in fact, was initiated when the accused decided to solemnise marriage with another lady, after retracting from his promise to marry the defacto complainant, who was subjected to sexual intercourse with promise of marriage. In view of the matter, in both the crimes, the prosecution allegations are well made out, prima facie, where arrest, custodial interrogation and conduct of medical potency test of the petitioner are necessary and in such a case, release of the petitioner on pre-arrest bail would impede the investigation. Therefore, both these petitions must fail.

In the result, these petitions are dismissed. Sd/- (A. BADHARUDEEN, JUDGE) rtr/

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