

Vinu vs State of Kerala

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Court : Kerala Orders

Decided On : Aug-03-2021

Judge : Honourable Mrs. Justice Shircy V.

Appeal No. : Bail Appl./5515/2021

Appellant : VINU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SHIRCY V. TUESDAY, THE 3RD DAY OF AUGUST 2021 / 12TH SRAVANA, 1943 BAIL APPL. NO. 5515 OF 2021 CRMC 993/2021 OF DISTRICT COURT & SESSIONS COURT, KOLLAM PETITIONER/ACCUSED: VINU, AGED 53 YEARS S/O.JAYADEVAN, VADHYARUVILA VEEDU, VAYYANAM P.O., ITTIVA VILLAGE, KOTTARAKAKRA, KOLLAM DISTRICT - 691 506. BY ADV P.ANOOP (MULAVANA) RESPONDENT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA - 682 031. OTHER PRESENT: C.N.PRABHAKARAN-SR.P.P THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03.08.2021, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING:

ORDER

DATED THIS THE 3RD DAY OF AUGUST, 2021 Apprehending arrest in connection with Crime No. 805 of 2021 of Kadakkal Police Station registered for the offences punishable under Sections 294(b), 323, 324, 452 and 354 of Indian Penal Code, the petitioner has filed this application under Section 438 of the Code of Criminal Procedure.

2. The prosecution allegation is that on

26.02.2021 at about 11.30 hours, the petitioner has trespassed into the residential house of the defacto complainant with the intention to attack her due to his enmity towards her. He showered obscene words towards her and hacked her mother with a chopper. When the defacto complainant tried to rescue her, she sustained grievous injuries in the attack by him. He has also attempted to attack her uncle who was present in the house. Thereafter, he has destroyed the scooter owned by her uncle and also destroyed the furniture as well as other household articles in the house. He then with the deliberate intention to outrage her modesty, misbehaved to her and slapped on her back and pulled her down and thereby committed the aforesaid offences.

3. The petitioner is the brother of the husband of the defacto complainant. She is residing along with her mother at her residence as her husband is employed abroad.

4. The learned counsel for the petitioner has raised a plea of false implication because of the marital dispute between the defacto complainant and her husband.

5. But, according to the learned Public

Prosecutor, this petitioner has committed the mischief by trespassing into the residential house of the defacto complainant with deadly weapon and

that itself would show that his intention was to cause injuries to the defacto complainant as well her mother. As the investigation of the case is only in the initial stage, granting of bail at this stage will definitely hamper the smooth course of investigation. The weapon used by the petitioner to inflict injury on the defacto complainant and to destroy the motor cycle of her uncle have to be recovered and that is possible only on interrogation of the petitioner in custody. Hence, the learned Public Prosecutor stoutly opposed this application.

6. A perusal of the FIS of the defacto

complainant would show the gravity of the offences committed by this petitioner. Her statement is to the effect that he has showered obscene words towards her and her mother as well her uncle who was present in the house along with them and attempted to cause injuries on them which was somehow resisted by the defacto complainant and thus she sustained fatal injury on her head. The defacto complainant is a young lady aged only 28 years. Definitely the accusations levelled against this petitioner are grave and serious in nature. Since the weapons used by him have to be recovered by the prosecution, and materials have to be collected for the purpose of investigation, I think that granting of pre-arrest bail, which is to be sparingly granted in suitable and apt cases, cannot be granted in this case. Hence, the request made by the learned counsel is rejected and this application is dismissed.

Sd/- SHIRCY V. JUDGE sb

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