

Ramesh vs the State of Kerala

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Court : Kerala Orders

Decided On : Oct-01-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Bail Appl./6413/2021

Appellant : Ramesh

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA FRIDAY,
THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 BAIL APPL.
NO. 6413 OF 2021 (CRIME NO.330/2021 OF MEPPAYUR POLICE
STATION, KOZHIKODE RURAL) PETITIONER/ACCUSED: RAMESH
AGED 50 YEARS S/O.GOPALAN, VATTAM THURUTHI HOUSE,
MUYIPPOTH P.O., CHERUVANNUR AMSOM DESOM, KOYILANDY
TALUK, KOZHIKODE DISTRICT, PIN - 673 524. BY ADVS. SAJEEVAN
KURUKKUTTIYULLATHIL SAJU JOSE VISHNU PRABHAKAR V.S.
RESPONDENT: THE STATE OF KERALA REP. BY SUB INSPECTOR
OF POLICE, MEPPAYUR POLICE STATION, THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. PP.C.N

PRABHAKARAN.SR.GP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Dated this the 1st day of October, 2021 The petitioner is the sole accused in Crime No.330/2021 of Meppayur Police Station, Kozhikode District, registered under Sections 498A of IPC and Section 31 of Protection of Women from Domestic Violence Act, 2005.

2. It is alleged that in violation of the protection order

of the Judicial First Class Magistrate Court dated 09.3.2021, the accused subjected the defacto complainant to physical and mental cruelty and also failed to grant maintenance as ordered by the Judicial First Class Magistrate Court, Payyoli. Thereby, the accused committed the offence aforementioned.

3. The marriage of the petitioner with the defacto

complainant was solemnised on 06.1.1996. According to the learned counsel for the petitioner, no children are born out of their wedlock and they are not in good terms for the last several years.

4. The report was filed by the Sub Inspector of Police

along with copy of FIR and FIS. The report filed by the Sub Inspector of Police stated that the investigation is not over. It is also stated that if bail is granted to the petitioner, there is possibility of petitioner influencing the witnesses and threatening them.

5. The learned counsel for the petitioner would contend

that the order passed by the Magistrate in M.C. No.820/2021 has been stayed as per Annexure A2 order of the Additional Sessions Court -V, Kozhikode. Hence, Annexure A2 order has not been violated by the petitioner.

6. Learned Public Prosecutor on the other hand objects in considering the petition for pre arrest bail.

7. The report of the Investigating Officer shows that the petitioner is not paying the maintenance and also subjected the defacto complainant to cruelty and thereby

violated the protection order. It is seen that direction stipulated as Clause C in the order alone has been stayed with a condition that the petitioner shall deposit the entire arrears of maintenance if any due to the defacto complainant before

the trial court. It is also directed that such amount if deposited shall be released to the defacto complainant. Petitioner is the husband of the defacto complainant. Records produced from the side of the respondent would go to show that she had been examined by the doctor on 31.3.2021, with the alleged history of assault by the husband. No external injuries and wounds are noted. Copy of the statement of the doctor has also been produced and the doctor has also stated about the examination of the defacto complainant. So there are prima facie materials to prove the allegations against the petitioner. Hence, I am not inclined to grant pre arrest bail to the petitioner.

8. However, in view of the facts and circumstances and the relationship between the parties, I am of the view that the

petitioner can be permitted to surrender before the Investigating Officer within a period of ten days starting from 01.10.2021. Thereafter on completing the formalities the Investigating Officer shall produce the petitioner on the same day before the jurisdictional court, upon such production if the petitioner files an application for regular bail, the concerned court is directed to dispose the application without unnecessary delay in accordance with law. In the result, the bail application is dismissed and the petitioner is granted permission to surrender before the Investigating Officer within ten days from today (01-10-2021). In the result, bail application is dismissed. Sd/- M.R.ANITHA JUDGE SMF