

Moideen Koya, vs State of Kerala,

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Court : Kerala

Decided On : Sep-29-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Bail Appl./6989/2021

Appellant : Moideen Koya,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA
WEDNESDAY, THE 29TH DAY OF SEPTEMBER 2021/7TH ASWINA,
1943 BAIL APPL. NO. 6989 OF 2021 CRIME NO.525/2021 OF
KUTTIADI POLICE STATION, KOZHIKODE DISTRICT
PETITIONER/4TH ACCUSED:

MOIDEEN KOYA, AGED 65 YEARS S/O.ALAVI (LATE), PILATODAN
HOUSE, ABDU RAHIMAN NAGAR, PUKAYOOR DESOM, V.K.PADY,
MAMPURAM P.O., MALAPPURAM, PIN-673 606. BY ADVS.
B.PREMNATH (E) SARATH M.S. RESPONDENTS/COMPLAINANT &
DEFACTO COMPLAINANT: 1 STATE OF KERALA, REPRESENTED

BY THE STATION HOUSE OFFICER, KUTTIYADI POLICE STATION,
(REPRESENTED BY THE PUBLIC PROSECUTOR), HIGH COURT OF
KERALA, ERNAKULAM, PIN-682 031.

2 MATHATH SAHADATH, D/O.AMMAD, VADAKEDATH HOUSE,
P.O.POOLAKKOOL, KAKKATTIL, KOZHIKODE, PIN-673 507.
ADV.SRI.C.N PRABHAKARAN, PUBLIC PROSECUTOR THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 29.09.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

ORDER

Petitioner is the 4th accused in crime No.525/2021 of Kuttiadi Police Station, which is registered for the offences punishable under Sections 354, 406, 498A and 506 read with Section 34 IPC and Section 4(3) of the Muslim Women (Protection of rights on marriage) Act, 2019

2. It is alleged that the first accused married the defacto

complainant on 20.08.2018 and thereafter they were living together as husband and wife at the house of the accused at Malappuram. While so, the accused persons subjected her both physical and mental cruelty demanding more money. It is also alleged that 40 sovereigns of gold ornaments given to her at the time of marriage was misappropriated by the accused persons and thereby the accused persons alleged to have committed the offences aforementioned.

3. According to the learned counsel for the petitioner, the

main overt-act alleged against him is outraging the modesty of the defacto complainant by hugging. It is also contended that mere hugging would not attract the offence under Section 354 IPC. -3-

4. The learned Public Prosecutor, on the other hand, strongly objects in considering the petition, in view of the specific allegations raised against the petitioner/4th accused.

5. On going through the FIS, it appears that a specific

incident on 06.06.2021 has been alleged against A4 and A5 of trespassing into the room of the defacto complainant and throwing her articles to outside and further that the second accused pulled her hair and pushed her and thereafter, she was sent away from the house. The petitioner is the father-in-law of the defacto complainant. Though it has been contended that the offence alleged against him is under Section 354 IPC. On going through the FIS, no allegation so as to attract the offence under Section 354 IPC is prima facie seen in the FIS and general allegations are made against the accused persons. In view of the facts and circumstances, especially, taking into account the fact that the petitioner is a senior citizen, I am inclined to grant pre-arrest bail to the petitioner.

(i) The petitioner shall be released on bail on

executing bond for a sum of Rs.35,000/- (Rupees thirty five thousand only) with two solvent sureties for the like sum each in the event of arrest by the police in connection with the above crime. -4-

(ii) The petitioner shall appear before the investigating officer for interrogation as and when required by him in writing. He shall co-operate with the investigation of the case.

(iii) The petitioner 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 from disclosing such facts to the court or to any police officer or tamper with the evidence.

(iv) The petitioner shall not commit any offence while on bail.

(v) In case of violation of any of the above conditions, the learned Magistrate is empowered to cancel the bail in accordance with the law. This bail application is allowed as above. Sd/- M.R.ANITHA JUDGE nkr

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