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Jayesh vs XXX

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SooperKanoon Citation : sooperkanoon.com/1807061

Court : Kerala

Decided On : Dec-29-2020

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : CRL.A/753/2020

Appellant : Jayesh

Respondent : XXX

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 29TH DAY OF DECEMBER 2020 / 8TH POUSHA, 1942 CRL.A.No.753 OF 2020 AGAINST THE ORDER/JUDGMENT IN CRMC 1751/2020 DATED 24-09-2020 OF IIIRD ADDITIONAL SESSIONS JUDGE, ERNAKULAM IN CONNECTION WITH CRIME NO.839/2020 OF HILL PALACE POLICE STATION, THRIPUNITHURA PETITIONER/ACCUSED: JAYESH AGED 25 YEARS S/O.JAYALAKSHMY, KARIMKULANGARA PUTHENVEEDU, VAVULYAPURAM P.O., ALATHUR TALUK, ATHIPPATTA VILLAGE. BY ADV. SRI.C.A.ANOOP RESPONDENTS/STATE/COMPLAINANTS: 1 VICTIM xxxxxxx 2 STATION HOUSE OFFICER HILL PALACE POLICE

STATION, THRIPPUNITHURA, PIN - 682 301. 3 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. R3 BY SMT.AMBIKA DEVI S, SPL.GP ATROCITIES AGAINST WOMEN AND CHILDREN AND WELFARE OF W AND C THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 29.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: CRL.A.No.753 OF 2020 2

JUDGMENT

Dated this the 29th day of December The appellant is the accused in Crime No.839/2020 of Hill Palace Police Station, Tripunithura. The said crime is registered for the offences under Section 376 (2) (n) of the Indian Penal Code and Section 3 (2) (v a) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act.

2. It is alleged that the defacto complainant and the

accused met through Social Media and thereafter their acquaintance grew, which was misused by the appellant who later committed rape on the defacto complainant at various places. The application for bail filed as Crl.M.C.No.1751/2020,

was dismissed by the Sessions Court, Ernakulam by judgment

dated 24.09.2020 against which the present appeal is preferred.

3. I have heard the learned counsel for the appellant as well as the learned Special Public Prosecutor. No objections have been filed by the State.

4. Though notice has been served on the first

CRL.A.No.753 OF 2020 3 respondent- the victim, none appears. There have been postings on 29.09.2020, 6.11.2020 as well as 22.12.2020. Inspite of those postings there has been no representation for the first respondent at any time.

5. The prosecution case in brief is that the petitioner, in order to satisfy his lust, falsely promised to marry the defacto complainant and committed rape on her and abused her sexually, on multiple occasions.

6. Taking note of the agreements of the learned

counsel for the appellant as well as the pleadings and the circumstances arising, I am of the view that this is a fit case where anticipatory bail can be granted. Accordingly, the appellant shall be released on bail in the event of his arrest on the following conditions:

> i. The appellant shall make himself available for interrogation before the Investigating officer within ten days from today. He shall also make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so; ii. If the appellant is arrested prior to, or after his appearance before the

> Investigating Officer in terms of this order, he shall be released from custody on execution of a bond for Rs.25,000/- with two solvent sureties each for the like sum. iii. The appellant shall not influence or intimidate the prosecution witnesses nor shall he attempt to tamper with the evidence of the prosecution. iv. The appellant shall not involve in any other offence while on bail.

Criminal Appeal is allowed as above. Sd/- BECHU KURIAN THOMAS JUDGE LEK CRL.A.No.753 OF 2020 5 APPENDIX PETITIONER'S ANNEXURES: ANNEXURE-1 TRUE COPY OF THE ORDER IN Crl.Appeal No.43/20 ANNEXURE-2 THE CERTIFIED COPY OF THE CRL.MC.NO.1751/2020 BEFORE THE III RD ADDITIONAL SESSIONS JUDGE, ERNAKULAM

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