

SESSIONS DIVISION, KOLLAM
IN THE ADDITIONAL SESSIONS COURT -IV
Present: Subhash. S, Additional Sessions Judge-IV, Kollam
Wednesday 23rd day of November 2022/ 02nd Agrahayana 1944

Crl. M.C. No. 2314/2022 in
Crime No. 1785/2022 of Kundara. P. S

Petitioner Harikrishnan, aged 27 years,
 S/o Rajendran, Thengayhyathu -
 Jayanthi Colony, Ambipoika,
 Kundara, Kollam.

By Adv. G. Amar Prasanth

Respondents State of Kerala represented by
 S.H.O, Kundara. P.S through
 public prosecutor, Kollam.

This petition is U/s. 438 of Cr. P.C having come up for consideration on 23-11-2022, on the same day the court passed the following.

ORDER

1st accused in Crime No. 1785/2022 of the Police Station, Kundara registered for the offences under sections 294(b), 447, 323, 354 r/w 34 IPC, has filed this application U/s. 438 of Cr.P.C.

2. The prosecution allegation against the accused is as follows:
The accused 1 to 3, due to their previous enmity, in furtherance of their common intention to outrage the modesty of the de facto complainant and to inflict injuries to her husband and the brother of her husband, on 30.10.2022, at about 21:45 hours, trespassed into the courtyard of Lalu Bhavanam house, Perumpuzha P.O. and assaulted them. The accused 1 to 3 hit and beat Anilal, who is the brother of the de facto complainant's husband and while the de facto complaint's husband intervened, 1st accused uttered obscenities towards him and beat on his nose and cheek and thereby caused

injury on his upper lips. As the de facto complainant intervened, 1st accused used obscene words towards her, caught hold of her hands and pushed her. Thereby the accused has committed the above offences.

3. The learned counsel for the applicant and the learned Additional Public Prosecutor have been heard. The case diary and report submitted by the learned Additional Public prosecutor have been perused.

4. The learned counsel appearing for the applicant submitted that the petitioner is falsely fabricated in this crime by the friends and relatives of the de facto complainant. The petitioner have no direct involvement in this case. The 1st accused has no intention to out rage the modesty of the de facto complainant. The petitioner is innocent and has no criminal antecedents. The petitioner is a law abiding citizen and is ready to abide any condition which may be imposed by this court.

5. The learned Additional Public Prosecutor opposed the application on the premise of the offence under section 354 IPC.

6. I have considered the submission made by the learned counsel appearing for the applicant and the learned Additional Public Prosecutor. Prosecution has no case that the applicant has been involved in any other crime. In the present case all offences except S.354 IPC are bailable. What is discernible from the Prosecution records is that the de facto complainant has been assaulted by the accused, but it is well settled that mere assault on a woman will not by itself come under S.354 IPC. There is no ingredients to attract S. 354 of IPC. Moreover, FIR was registered on 31.10.2022 and on a

perusal of prosecution records it appears that the investigation is almost completed. So, considering the nature of the offences alleged to have been committed by the applicant and the present stage of investigation this court finds that custodial interrogation of the applicant is not necessary for the progress of the investigation and the application can be allowed on conditions.

7. In the circumstances, the application is allowed on the following conditions:

1. The applicant shall surrender before the Investigating Officer concerned within ten days from today in between 09:00 a.m and 10:00 a.m. In the event of surrender, after interrogation, if any, release the applicant on bail on execution of bond for Rs.25,000/- (Rupees Twenty Five Thousand Only) with two solvent sureties each for the like sum.

2. The applicant shall appear before the Investigating Officer concerned as and when called for and cooperate with the investigation.

3. The applicant shall not tamper with evidence, influence or intimidate the complainant or witnesses.

4. The applicant shall not leave India without prior permission of Jurisdictional Magistrate concerned.

Dictated to my Confidential Assistant, transcribed and typed by her, revised and corrected by me and pronounced in open court, on this the 23rd day of November, 2022.

Subhash. S
Addl. Sessions Judge-IV, Kollam

Typed by : Sangeetha. J. Nair
Compared by : Shanthinimol

Copy to : S.H.O, Kundara. P. S