

SESSIONS DIVISION, KOLLAM
IN THE ADDITIONAL SESSIONS COURT -IV
Present: Subhash. S, Additional Sessions Judge-IV, Kollam
Saturday 05th day of November 2022/14th Karthika 1944

Crl. M.C. No. 1977/2022 and 1979/ 2022 in
Crime No. 1092/2022 of Kottiyam. P.S

Crl. M.C. No. 1977/2022

Petitioners :1. Ajithakumar, aged 61, W/o Mohanan,
Praseed Bhavan, Thazhuthala Village,
Kizhavor, Mukhathala, Kollam.

2. Praseeda, aged 32, W/o Biju,
Praseed Bhavan, Thazhuthala village,
Kizhavor, Mukhathala, Kollam.

By Adv, Parippally Aneesh. B.P

Respondent State of Kerala represented by
S.H.O, Kottiyam P.S through
public prosecutor, Kollam.

Crl. M.C. No. 1977/2022

Petitioner Pratheeshlal, aged 32, S/o Mohanan,
Praseed Bhavan, Kizhavor,
Mukhathala, Kollam.

Respondent State of Kerala represented by
S.H.O, Kottiyam P.S through public
prosecutor, Kollam.

This petition is U/s. 439 of Cr. P.C having come up for consideration on 05-11-2022, on the same day the court passed the following.

ORDER

Accused 2 & 3 in Crime No. 1092/2022 of the Police Station, Kottiyam registered for offences under sections 498(A) r/w 34 IPC and section 75 of Juvenile Justice Act, have filed Criminal MC No. 1977/2022 and 1st accused in the above crime preferred Criminal MC No. 1979/2022 U/s. 438 of Cr.P.C. seeking pre-arrest bail. As the

above petitions arises out of the same crime, both the petitions are disposed by the common order.

2. The case of the prosecution is as follows: 1st accused is the husband of the de facto complainant and accused 2 and 3 are mother and sister of the 1st accused. The marriage between the 1st accused and the de facto complainant was solemnized on 11.05.2016 and at the time of marriage the parents of the de facto complainant gave her 100 sovereigns of gold ornaments and Rs.2,00,000/-. While the de facto complainant was residing along with the accused at their family house named Praseeda Bhavanam, the 1st and 2nd accused sold her gold ornaments and utilised the sale proceeds for the construction of a new house behind the family house. After the completion of the construction of the new house the de facto complainant along with her son and the parents of the 1st accused shifted their residence to the newly constructed house named 'Sreelakam' house. While the de facto complainant and her son were residing at Sreelakam House the accused 1 to 3 tortured the de facto complainant mentally and physically demanding more dowry. The 2nd accused tortured her child also. As the parents of the de facto complainant were unable to give more dowry, the 1st and 2nd accused conveyed the said house and 7.5 cents of land in the name of 3rd accused. While so, on 06.10.2022, at about 03:30 p.m, while the de facto complainant left the home for bringing back her child from school bus, 2nd accused locked the gate and door of the house from inside and kept the de facto complainant and her child outside the house and property. At about 11:30 p.m the de facto complainant entered into the house compound with her child and spent the whole night at the sitout of the house. Thereby the accused have committed the above offences.

3. The learned counsel for the accused and the learned Additional Public Prosecutor have been heard. The case diary and report made available by the learned Additional Public prosecutor was perused.

4. The learned counsel appearing for the applicants submitted that the petitioners are totally innocent and they did not commit any offence as alleged by the de facto complainant. According to the learned counsel for the 2nd and 3rd accused, 2nd accused filed O.S. 913/217, a suit for injunction, before the Munsiff's Court, Kollam against the de facto complainant and her husband and the said suit was decreed in favour of the 2nd accused. In 2021 the de facto complainant filed MC 133/21 before the Judicial 1st Class Magistrate Court-II, Kollam by suppressing the decree of the Munsiff's Court, Kollam and got a residence order, but later in view of the decree passed by the Munsiff's Court, Kollam the learned Magistrate vacated the said order. He further contended that, in the meantime, the 2nd accused approached the Maintenance Tribunal and Sub Divisional Magistrate, Kollam under the provisions of Maintenance and welfare of parents and senior citizens Act, 2007 and as per the order of the tribunal dated 14.09.2022, S.H.O., Kottiyam was entrusted for the enforcement of the decree of the Munsiff's Court dated 17.08.2018 and the order of the Magistrate dated 7.7.2022. The petition filed by the de facto complainant before the Family Court, Kollam as OP No. 114/2021 for realisation of money and gold ornaments is also pending. The applicants are law abiding citizens and are ready to abide by any condition which may be imposed by this court.

5. The learned Additional Public Prosecutor opposed the application stating that the offences registered against the accused are grave in nature.

6. I have considered the submission made by the learned counsel appearing for the applicants and the learned Additional Public Prosecutor. Sub Inspector of Police, Kottiyam filed a report through the Public Prosecutor stating that the applicants are accused in another crimes also. According to him a crime was registered against the 1st accused as per FIR No. 205/2022 for offences U/Ss. 294(b), 323 IPC and sec. 31(i) of PWDV Act and another crime was registered against the 2nd and 3rd accused as per FIR No. 799/2021 for offences U/Ss. 498(A), 323, 324, 307 r/w 34 IPC. On the other hand learned counsel for the 2nd and 3rd accused produced the copy of judgment of the Principal Munsiff, Kollam, in O.S.913/2017 and copy of the order of Maintenance Tribunal and Sub Divisional Magistrate, Kollam. The copy of judgment in O.S.913/2017 would show that the 2nd accused filed the said suit for injunction against the de facto complainant and her husband and the said suit was decreed in favour of the 2nd accused. It is to be noted that the de facto complainant filed MC 133/21 before the Judicial 1st Class Magistrate Court-II, Kollam and the learned Magistrate passed a residence order in her favour, but later in view of the decree passed by the Munsiff's Court, Kollam the learned Magistrate vacated the said order as per the order dated 07.07.2022; the de facto complainant filed Crl.Appeal No.102/2022 before the Hon'ble Sessions Court, Kollam challenging the order of the learned Magistrate dated 07.07.2022 and the said appeal is pending before this court. The order of the Maintenance Tribunal and Sub Divisional Magistrate, Kollam, would show that the 2nd accused filed application under the provisions of Maintenance and welfare of

parents and senior citizens Act, 2007 and as per the said order of the tribunal dated 14.09.2022, S.H.O., Kottiyam was entrusted for the enforcement of the decree of the Munsiff's Court dated 17.08.2018 and the order of the Magistrate dated 7.7.2022. Admittedly, the petition filed by the de facto complainant before the Family Court, Kollam as OP No. 114/2021 for realisation of money and gold ornaments is also pending. Coming to the present case the prosecution allegation is that the accused 1 to 3 tortured the de facto complainant demanding more dowry and on 6.10.2022, the 2nd accused locked the gate and door of the house, where de facto complainant and her child are residing, and did not allow them to enter into the said house. While considering the prayer for the grant of pre-arrest bail it should be ensured that no prejudice should be caused to fair investigation. In the present case FIR registered on 07.10.2022 and the investigation is almost completed. So, considering the prosecution allegation and other circumstances of the case and the present stage of investigation this court finds that the custodial interrogation of the applicants is not necessary for the progress of investigation. In the circumstances the above applications can be allowed on stringent conditions.

7. In the circumstances, the applications are allowed on the following conditions:

1. The applicants 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 applicants on bail on execution of bond for Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two solvent sureties each for the like sum.

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

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

4. The applicants shall not involve in any other offence while on bail.

5. The applicants 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 05th day of November, 2022.

Subhash. S
Addl. Sessions Judge-IV, Kollam

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

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