
(2014) 02 KL CK 0180
In the High Court Of Kerala
Case No : Bail Appl. No. 1269 of 2014

Muhammed Rafi @ Manu

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 24-02-2014

Acts Referred:

Information Technology Act, 2000 — Section 66E
Penal Code, 1860 (IPC) — Section 376, 384, 392, 450, 506(i)

Citation : (2014) 02 KL CK 0180

Hon'ble Judges : N.K. Balakrishnan, J

Bench : Single Bench

Advocate : P. Venugopal, by Adv, Advocate for the Appellant; Dhanesh Mathew Manjooran, by Public Prosecutor, Advocate for the Respondent

Judgement

N.K. Balakrishnan, J.—Petitioner is the accused in Crime No.63/2014 of Kalpakanchery Police Station, Malappuram District. The offences alleged against him are punishable under Secs. 511 of 376, 506(i) and 392 of IPC and Sec. 66E of Information Technology Act. It is alleged that on 22.1.2014 at about 8 PM, the petitioner went to the house of the complainant, caught hold of her and attempted to have sexual intercourse with her without her consent and against her will. It is alleged that the accused lay upon her, tore the maxi and skirt and kissed her. It is stated that the aforesaid acts were photographed by the accused using his mobile phone. The further allegation is that the gold chain worn by the complainant was forcibly taken away by the accused.

2. Learned counsel for the petitioner submits that raising exactly similar allegations, earlier a crime was registered against the petitioner. As against that, the petitioner moved Crl.M.C.No.2520/2013 before this Court, where, the offences alleged were punishable under Secs. 384, 450 and 511 of 376 of IPC. In fact that case was pending before the Addl. Sessions Court (Adhoc-II), Manjeri as S.C.No.178/2013. After hearing the de facto complainant, this Court quashed the further proceedings in that case. But that case was quashed since the dispute

between the parties was settled.

3. Learned counsel for the petitioner submits that the present complaint is a verbatim reproduction of the earlier allegations except for making slight changes. According to the learned counsel, making slight changes in the earlier complaint, the present complaint was given, which itself will falsify the allegations made by the complainant.

4. A document was executed on 17.5.2013, which was signed by the complainant and executed in favour of the petitioner herein, where, it was stated that she had borrowed 1 lakh from the petitioner and that she was to return that amount within six months from that date. Learned counsel for the petitioner submits that on going through the complaint, it can be seen that the story put forward by the complainant is imaginary, if not artificial.

5. However, considering all the aspects, the following directions are issued:

The petitioner shall surrender before the Investigating Officer within one week from today. After interrogation the accused shall be produced before the learned Magistrate. When applied for bail by the accused, the learned Magistrate will grant bail to the petitioner but on the following conditions:

a. The accused shall execute a bond for 50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. If in case the Magistrate has any doubt about the genuineness or correctness of the tax receipts produced by the sureties, the learned Magistrate can insist for production of the attested photo copies of the original title deeds of the sureties.

b. The accused shall make himself available for interrogation by the Investigating Officer and should appear before the Investigating Officer on all Mondays and Fridays between 9.30 AM to 11.30 AM until further orders.

c. The accused shall produce his original passport before the learned jurisdictional Magistrate. If he is not having any valid passport, he should file an affidavit regarding the same before the Magistrate.

d. The accused will also file affidavit that he will abide by all the conditions as mentioned above and that he will not commit any offence similar to the offence involved in this case and will 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.

e. The accused shall not leave the State of Kerala without permission of the court.

f. The learned Magistrate will also ensure the identity of the sureties by insisting production of electoral photo identity cards/Driving licence etc.