
(2018) 02 KL CK 0036
In the High Court Of Kerala
Case No : 5483 of 2017

SHIBU PETER & ORSW

APPELLANT

Vs

STATE OF KERALA & ANR

RESPONDENT

Date of Decision : 21-02-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 34](#), [Section 5](#)

Citation : (2018) 02 KL CK 0036

Hon'ble Judges : Raja Vijayaraghavan V

Bench : Single Bench

Advocate : RAHUL SHENOY, AJITH MURALI, PAUL K.VARGHESE

Final Decision : Allowed

Judgement

1. This petition is filed under Section 438 of the Code of Criminal Procedure.
2. The petitioners herein are the accused Nos. 1 to 3 in Crime No.1171 of 2017 of Kunnathunadu Police Station, registered alleging offence punishable under Sections 498(A), 406, 294(b), 506 and 34 of the IPC.
3. The wife of the 1st petitioner is the de facto complainant. In the course of proceedings, the de facto complainant was impleaded as additional 2nd respondent.
4. In the year 2014, the 1st petitioner herein married the 2nd respondent. They both studied in the same college and had fallen in love. At the time of marriage, not less than Rs.7 lakhs and 60 sovereigns of gold was entrusted with the 2nd respondent by her parents. The 1st petitioner started harassing the 2nd respondent demanding more money. The parents of the 1st

petitioner actively aided him. The 1st petitioner is a drunkard and his mental and harassment became so unbearable that the 2nd respondent was left with no alternative but to file the complaint.

5. The learned counsel appearing for the petitioners asserted that minor matrimonial disputes have been blown beyond proportion and untenable allegations are now raised. It is submitted that the petitioners 2 and 3 are aged and ailing and they had no role to play in the fight between the husband and the wife.

6. The learned Public Prosecutor has opposed the prayer. It is submitted that very serious allegations have been levelled against the 1st petitioner.

The learned counsel appearing for the 2nd respondent submitted that the petitioners herein have acted in tandem and have mentally and physically harassed the 2nd respondent making her life miserable. The 2nd respondent has been diagnosed with cancer and she had to amass huge sums of money to save her property from the debts created by the 1st petitioner .

7. I have considered the submissions advanced and gone through the case diary. In so far as the 1st petitioner is concerned, very serious allegations have been levelled. He is not entitled to any discretionary reliefs. Insofar as the 1st petitioner is concerned, this petition will stand

dismissed. However, insofar as the petitioners 2 and 3 are concerned, who are both sexagenarians, their custodial interrogation is not warranted

for an effective investigation .

8. In the result this petition is partly allowed. The petition filed by the 1st petitioner will stand dismissed. Insofar as the petitioners 2 and 3 are concerned, their petition will stand allowed.

i). The petitioners 2 and 3 shall appear before the investigating officer within ten days from today and shall undergo interrogation. Thereafter, if they are proposed to be arrested, they shall be released on bail on their executing a bond for a sum of Rs.40,000/- (Rupees forty thousand only) each with two solvent sureties each for the like sum.

ii) They shall co-operate with the investigation and shall appear before the Investigating Officer as and when directed .

iii) They 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/ her from disclosing such facts to the court or to any police officer.

iv) They shall not commit any similar offence while on bail.

In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any,

and pass appropriate orders in accordance with the law.