

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

TUESDAY, THE 23RD DAY OF AUGUST 2022 / 1ST BHADRA, 1944

CRL.A NO. 852 OF 2022

AGAINST THE ORDER DATED 12.08.2022 IN CRL.MC.NO. 1750/2022 ON
THE FILES OF SESSIONS COURT, ERNAKULAM IN CRIME NO.744/2022
OF TOWN SOUTH POLICE STATION, ERNAKULAM DISTRICT.

APPELLANT/ACCUSED:

SOORAJ.V.KUMAR,
AGED 41 YEARS,
S/O V.S SUKUMARAN NAIR,
VATTAPARAKKAL (H) KADANAD P.O.,
PALA, KOTTAYAM - 686653,

BY ADVS.SRI.THOMAS J.ANAKKALLUNKAL
SRI.JAYARAMAN S.
SRI.NIRMAL CHERIYAN VARGHESE
SMT.LITTY PETER

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA- 682031,
- 2 XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXX

R1 BY SENIOR PUBLIC PROSECUTOR SRI.RENJITH GEORGE
R2 BY ADV SMT.K.NANDINI

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
23.08.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 23rd day of August, 2022

This appeal is filed challenging an order passed by Court of Sessions, Ernakulam (for short 'the court below') in CrI.M.C.No.1750/2022 rejecting the bail application filed by the Appellant. Crime No.744/2022 was registered against him by Ernakulam Town South Police Station alleging commission of offences punishable under Sections 354A(1)(iv), 509, 294(b) of the Indian Penal Code, 1860 (for short 'the IPC') and 66E and 67A of the Information Technology Act, 2000 (for short 'the IT Act') and Sections 3(1)(r), 3(1)(s), 3(1)(w)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act, 2015) (for short SC/ST (POA) Act).

2. The case of the prosecution was that the petitioner as a friend of Mr.Nandakumar, a journalist, had conducted an interview with the defacto complainant's husband and father in-law and broadcasted it in his Channel named "True TV" which

is having viewership of more than five lakhs. It is alleged that when Mr.Nandakumar was taken into custody pursuant to registration of a case at the instance of the defacto complainant that the present news item was broadcasted by the petitioner herein.

3. According to Smt.K.Nandini, the learned counsel for the defacto complainant, the broadcasting of the interview humiliated the defcato complainant before public and the children were prevented from appearing in public and also attending the school. According to her several abusive words have been spoken by the persons who were interviewed and those were broadcasted. It is submitted that those were having an impact of humiliating the de facto complainant and her children. It is submitted that if bail is granted to the petitioner, the same thing would be repeated and the defacto complainant and her children would be insulted and humiliated further among public.

4. The learned counsel for the appellant has submitted that the appellant was in custody for the last 25 days. According

to him appellant's office has been raided by the investigating agency and materials relating to the crime have been seized. According to him the appellant having served enough days in custody is now entitled for bail.

5. In the order appealed against the court below has observed that the offences allegedly involved in the crime are serious ones. The relevant part of the order of the court below while declining to grant bail is reproduced hereunder:

" At the very same time, it is to be noted from the report filed by investigating officer before this court that the petitioner herein reiterated that the contents of video telecast are true even after the dismissal of his bail application by Hon'ble High Court of Kerala. Further it is also brought to the notice of the court that Mr.Nandakumar telecast another video appreciating the acts of petitioner herein and also acknowledging the acts of the petitioner that those are correct as the defacto complainant deserves it. This shows that the petitioner herein and Mr.Nandakumar are in hand in glove to humiliate and insult the defacto complainant herein. Though the videos were withdrawn now, the act on the side of the petitioner even after the dismissal of Bail Application by the Hon'ble High Court shows that the petitioner telecast the video

intentionally to humiliate and insult the defacto complainant. The recovery is effected in this case. The petitioner was arrested on 29.07.2022 and 15 days are over now. But considering the present scenario of circulating and telecasting news in social media and other platforms humiliating and insulting the privacy of individuals, I hold that granting bail at this stage is too early and will give a wrong message to the society. On the basis of above discussion I hold that the petitioner is not entitled to get bail at this stage.

In the result, the petition is dismissed.”

6. The court below has observed that the appellant herein and Mr.Nandakumar acted hand in glove to humiliate and insult the defacto complainant. It is also reported that the videos were withdrawn only after registration of the crime. The court below has also observed that the recovery of materials related to the case is already effected. While declining bail the court below was much concerned of the impact, grant of bail would cause in the society, rather than the purpose served by prolonging the custody.

7. The learned Public Prosecutor has submitted that a complaint has been lodged against the appellant by one

Mr.Jayan but was withdrawn by him stating that civil remedies would be pursued. He canvassed for dismissal of the appeal on hand on that reason. Filing of a complaint by one person against the appellant and lateron withdrawing therefrom for pursuing with civil remedies cannot be treated as a criminal antecedent. The appellant being a man involved in offences of this nature for the first time and having served custody, both judicial as well as under police altogether for 25 days, there is nothing wrong in enlarging him on bail now.

8. This Court finds that keeping the appellant in custody further would not benefit the investigation process in any manner. The reason based on which the application seeking bail of the appellant was dismissed was the filing of the application at a too early stage of investigation.

9. In the result, appeal stands allowed. Criminal M.C.No.1750/2022 is allowed. Bail stands granted to the petitioner on execution by him of a bond for Rs.2,00,000/- with two solvent sureties each for the likesum to the satisfaction of the court below and also on conditions, hereinbelow mentioned:

1. The appellant shall neither intimidate or attempt to influence the witnesses of the prosecution, nor tamper with the evidence proposed to be adduced and relied on by the prosecution.

2. The appellant shall not commit any offences while on bail.

3. The appellant shall appear before the court and co-operate with proceedings of the court in the case.

4. The appellant shall not leave India without obtaining permission of the court and if he is having a passport, shall deposit the same before the trial court within a week, and in case, release of the passport is required at a later point of time necessary orders to that effect shall be obtained from a court having jurisdiction by filing applications and establishing his cause.

5. The appellant shall not disturb the peaceful life of the defacto complainant and her children by entering into the jurisdiction of the police station within which limits herself and children reside and the defacto complainant works for gain.

6. The appellant shall not broadcast any news item which is harmful and humiliating of the defacto complainant and her children, anymore.

In case of violation of any of the aforesaid conditions, the investigating officer is at liberty to apply for cancellation of bail.

Sd/-

**MARY JOSEPH
JUDGE**

MJL

APPENDIX OF CRL.A 852/2022

PETITIONER'S ANNEXURES:

ANNEXURE: A1 CERTIFIED COPY OF THE ORDER IN CRL.M.C
1750/2022 FILED BEFORE THE SESSIONS
COURT, ERNAKULAM

RESPONDENTS' ANNEXURES: NIL

// TRUE COPY//

P A TO JUDGE