

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Bail Appl..No. 1289 of 2015

**CRIME NO.3/2015 OF ALL WOMEN'S POLICE STATION, THALLAKKULAM,
MADURAI DISTRICT, TAMILNADU**

PETITIONER(S)/5TH ACCUSED :

**DAVID SAJ MATHEW, AGED 49 YEARS,
S/O.LATE MATHEW, PULIKKAPARAMBIL HOUSE,
FATHIMA NAGAR, THRISSUR.**

**BY ADVS.SRI.C.A.CHACKO
SRI.SEBY JOSEPH
SMT.C.M.CHARISMA**

RESPONDENT(S)/COMPLAINANT :

- 1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
ALL WOMEN'S POLICE STATION, THALLAKKULAM,
MADURAI DISTRICT, TAMILNADU- 625 002.**
- 3. THE SUB INSPECTOR OF POLICE,
THRISSUR EAST POLICE STATION - 680 001.**
- 4. THE SUB INSPECTOR OF POLICE,
ALUVA EAST POLICE STATION- 683 101.**

BY PUBLIC PROSECUTOR SRI.JIBU.P.THOMAS

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

RAJA VIJAYARAGHAVAN.V. J

B.A. 1289 of 2015

Dated 17th June, 2015

ORDER

1. The petitioner has been arrayed as the 5th accused in Crime No.3 of 2015 of All Women's Police Station, Thallakkulam, Madurai District. The said crime is registered for the offence punishable under Sections 498A, 406 and 506(i) of IPC and under Section 4 of Tamilnadu Prevention of Harassment against Women Act, based on a complaint filed by the wife of the 1st accused, Mrs.Kasthuri.

2. The allegation is that the 1st accused married the de-facto complainant in the year 2005 and they started living together at Madurai. No issues were born out of the marriage. Later, there was marital dispute between the spouses and the 1st accused refused to co-operate with the wife, the de-facto complainant. It is the further allegation that on 20.12.2014 the 1st accused had informed the de-facto complainant that he was going to

marry another woman who was working with him in his college , through the petitioner , herein who is the Associate Professor, Department of Botany, Union Christian College, Aluva. It is the further case of the de-facto complainant that she went to the College along with her brother and came to understand that her husband had married another lady by name 'Ruby'. It was in the said circumstances that Annexure-I complaint was preferred by the de-facto complainant based on which the aforesaid crime was registered.

3. Notice was issued to the 2nd respondent , the officer who registered the crime. Though the said notice was served , there is no representation . I have heard the learned counsel for the petitioner as well as the Public Prosecutor .

4. The learned counsel for the petitioner would submit that he is totally innocent. She submitted that the petitioner has been roped in as an accused in the instant case and there is only a vague mention in the complaint

that the 1st accused was planning to get married to another lady who is working with him in his College through the petitioner. Other than the above, there is no allegation against the petitioner bringing the acts of the petitioner within Section 498A, 406 or 506(i) of the IPC or under Section 4 of the Tamilnadu Prevention of Harassment Against Women Act. The learned counsel for the petitioner submitted that the petitioner only has passing acquaintance with the 1st accused and he has no knowledge whatsoever as regards the relationship between the 1st accused and the defacto complainant. It was pointed out that the petitioner is at present the Senior most Professor in the College and he has already attended to the interview for the post of Principal. He has been implicated in the above crime without any basis according to the learned counsel and was arrayed as 5th accused without conducting a proper enquiry. He would submit that the examinations are going on in the college and owing to the registration in the crime, the Officers attached to the Tamilnadu police, with the assistance of the local police, have been frequenting the college

premises with a view to arrest the petitioner. On these grounds, it was submitted that the relief of pre-arrest bail be granted to the petitioner. The learned Counsel also placed reliance upon the decisions reported in **C. I. Mathew v. Govt. of India (1984 KLT 942)**, **Madhusoodan v. Supdt. of Police (1992 (2) KLT 83)** and **Samdeep Varghese and Another V State of Kerala (2010 (2) KHC 881)**, for bringing home the proposition that the application seeking anticipatory bail can be entertained by any High Court within whose jurisdiction a person apprehends arrest.

5. The learned Public Prosecutor on instructions, submitted that specific allegation has been levelled and there is no reason to exercise the discretion in favour of the petitioner.

6. On a perusal of the relevant records and after hearing the counsel for the petitioner and the respondent, I am of the opinion that the petitioner has made out a *prima facie* case for grant of pre-arrest bail. There is no

whisper in the statement furnished by the defacto complainant that the petitioner had any role to play in the act of cruelty perpetrated on her by her Husband . The petitioner is a senior Professor in a College and it would result in infamy and hardship if he is arrested by the police on the basis of the above allegations. The apprehension raised by the petitioner is genuine .

7. At the same time, crime has been registered in the State of Tamil Nadu and this Court in exercise of powers cannot enlarge the petitioner on bail in respect of the crime pending in different State. In view of the above, necessary directions will have to be issued to safeguard the interest of the petitioner as also the de-facto complainant.

8. Taking all these aspects into consideration, the following directions are issued.

- (i). The petitioner/accused No.5 shall, in the event of his arrest, be enlarged on bail on him executing bond for Rs.25,000/-

(Twenty five thousand) with two solvent sureties each to the like sum to the satisfaction of the arresting officer.

(ii). The above order of anticipatory bail will be in force only for a period of 60 days

(iii). The petitioner will have to approach the Jurisdictional Magistrate in the State of Tamil Nadu and obtain necessary orders within the above period of 60 days.

(iv). This order of anticipatory bail will take effect only if, the arrest is made within the State of Kerala.

(v). The petitioner shall not influence or intimidate the witnesses or he shall not tamper with the evidence.

In the result, the Application is allowed.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//

P.S.ToJudge