

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

Cr1.MC.No. 7105 of 2015 ()

CRL.M.P.NO.3901/2015 IN CRL.M.C.1988/2015 OF the SESSIONS COURT,
THRISSUR

PETITIONER/ACCUSED:

UMMER C.A. AGED 35 YEARS
S/O.AHAMADE, CHOLACKAL HOUSE, MURINGAL
KODALI, PATHUKULANGARA, VELLIKULANGARA VILLAGE
CHALAKUDY TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R BY PUBLIC PROSECUTOR: SMT M T SHEEBA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

ANNEXURE A: TRUE COPY OF THE ORDER DT.22-9-2015 IN CRMC NO.1988/2015 OF THE HON'BLE COURT OF SESSIONS JUDGE, THRISSUR.

ANNEXURE B: TRUE COPY OF THE DRIVING LICENCE ISSUED BY MINISTRY OF INTERIOR TRAFFIC DEPARTMENT, STATE OF QATAR.

ANNEXURE C: TRUE COPY OF THE DRIVER CARD ISSUED FROM THE TRAVEL AGENCY.

ANNEXURE D: TRUE COPY OF THE VISA ISSUE BY THE STATE OF QATAR.

ANNEXURE E: TRUE COPY OF THE ID CARD ISSUED BY STATE OF QATAR.

ANNEXURE F: TRUE COPY OF THE ORDER DT.3-11-2015 IN CRMP 3901/2015 IN CRMC 1988/2015 OF THE HON'BLE COURT OF SESSIONS JUDGE, THRISSUR.

ANNEXURE G: TRUE COPY OF THE RECEIPT DT.7-10-2015 EVIDENCING THE PAYMENT OF RS.5,000/- TO PETITIONER'S WIFE.

ANNEXURE H: TRUE COPY OF THE UNDERTAKING LETTER DT.5-8-2015.

RESPONDENT(S) ' EXHIBITS:NIL

True Copy /

P.A to Judge

SUNIL THOMAS, J.

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Crl.M.C.No.7105 of 2015
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Dated this the 11th day of November, 2015

ORDER

The petitioner herein is the accused in Crime No.635 of 2015 of Vellikulangara Police Station for offence punishable under Sections 325, 498A, 323, 405 and 204(b) of the Indian Penal Code.

2. The allegation of the complainant, wife was that the accused had married her on 25.07.2008 and thereafter, they have been living together. Subsequently, the matrimonial relationship got disrupted, resulting in the crime on an allegation that he had misappropriated 30 sovereigns of gold ornaments and Rs.25,000/ of the de facto complainant and subjected her to mental and physical cruelty. Anticipating arrest, he moved the learned Sessions Judge seeking anticipatory bail, which was granted by order dated 22.09.2015 in Crl.M.C.No.1988 of 2015, inter alia, on certain conditions. One of the condition was that the accused shall not leave India without the previous permission of the Court. Subsequently, he filed Crl.M.P.3901 of 2015 seeking lifting of the above condition as well as further condition that he shall appear before the Investigation Officer on all Mondays for a period of

three months. The reason stated is that his license and visa will expire on 17.11.2015 unless he reports to his place of employment at Qatar on or before 17.11.2015. Learned Sessions Judge by the impugned order dated 03.11.2015 held that no sufficient reason was stated by the petition to lift the condition and dismissed the Crl.M.P. This is impugned in this Crl.M.C.

3. Heard learned counsel for the petitioner and the learned Public Prosecutor who, after getting instructions submitted that final report has not been laid even now. However, it appears that the accused has undergone interrogation and his statement seems to have been recorded.

4. It is evident that the complainant has been complying with the condition since the date of order. The investigating agency has no complaint that he has violated any of the conditions. Essentially, the grievance of the complainant is that in fact he is employed abroad and on an undertaking given by his colleague, he had come to India and faced the investigation. Unless he returns within the stipulated period, he is likely to loose the job. Essentially, the allegations against the accused arise out of a matrimonial dispute. It cannot be considered as a very serious

matter in which, his presence is likely to hamper the further progress of the investigation. Since he has undergone the interrogation and in the absence of anything to show that his presence in India is absolutely essential, the delay in filing the final report shall not work out injustice to appellant who is facing the contingency of loosing of his employment and source of income. Hence, I feel that a practical view can be taken by imposing strict conditions. Permission is granted to him to leave the country only for a period not exceeding one year from the date of leaving. He shall intimate his change of address, if any, thereafter to the trial court/or to the investigating officer. In the above circumstances, necessarily, condition no. (b) shall also stand revoked.

Crl.M.C. is allowed as above.

Sd/
SUNIL THOMAS
Judge

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