

IN THE COURT OF SESSION, ERNAKULAM DIVISION

Present:

Smt.Honey M.Varghese, Sessions Judge

Friday, 12th day of August, 2022/21st Sravana, 1944

Crl. M.C. No.1750 of 2022

(Crime No.744/2022 of Town South Police Station)

Petitioner/Accused :-

Sooraj V.Kumar, aged 41 years, S/o.V.S.Sukumaran Nair, Vattaparakkal House, Kadanad P.O., Pala, Kottayam-686653.

By Advs.Thomas J.Anakkallunkal, Jayaraman S,
Nirmal Cheriyan Varghese & Litty Peter.

Respondents/State & Defacto Complainant:-

State of Kerala, represented by Public Prosecutor through SHO, Town South Police Station, Ernakulam.

By Public Prosecutor Sri.Manoj G.Krishnan

This petition filed u/s.439 of Cr.P.C., praying this Court to grant regular bail to the petitioner.

This petition coming on for hearing on 11.08.2022 and the court on 12.08.2022, passed the following:-

ORDER

This petition is filed u/s 439 of Cr.PC for regular bail by the accused in crime no. 744/2022 of Ernakulam Town South police station, registered for the offences u/s. 354A(1)(iv), 509, 294(b) IPC, 66E and 67(A) of Information Technology Act and section 3(1)(r), 3(1)(s), 3(1)(w)(ii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment Act 2015).

2. The case of the prosecution in brief is that the petitioner herein is the friend of one Nandakumar who is a journalist. A case was registered against the said Nandakumar on the strength of complaint by the defacto complainant herein. Petitioner herein is the Managing Director of an online news channel by

name “True TV”. On account of the enmity that the defacto complainant filed complaint against Mr.Nandakumar, petitioner herein obtained an interview of the husband and father-in-law of the defacto complainant who are allegedly in loggerheads with the victim. The petitioner herein telecast the said interview through his channel “True TV” having viewer ship of more than five lakhs. The video was also circulated through facebook. It is alleged that the private visuals of defacto complainant were also edited and added in the video telecast on 21/06/2022. The petitioner herein intentionally addressed the defacto complainant by using filthy words and also using sexually coloured remarks against her so as to create an impression that she is a lady with low reputation. The defacto complainant belongs to scheduled tribe. The petitioner humiliated the defacto complainant in public view by the above acts and thereby the petitioner committed the offences alleged against him.

3. The learned counsel for the petitioner strenuously contended that though the petitioner published a video through his channel, he withdrew the video from all the online medias. The video is not available at present. He contended that he obtained an interview of the husband of the defacto complainant and video contains the narrative of the husband about the way in which his family and life was spoiled by the defacto complainant. The said video contains versions of her husband and hence no offence alleged against the petitioner will be attracted. The petitioner is a

diabetic patient. The learned counsel highlighted the fact that the video was withdrawn from the media and argued that it shows the fact that petitioner has regression about the acts allegedly committed by him and prayed to allow this petition.

4. The learned Public Prosecutor vehemently opposed the bail application and Submitted that even at the time of arrest of the petitioner herein he humiliated the defacto complainant. It is further submitted that the petitioner claimed even after the dismissal of his petition under section 438 of Cr.P.C by Hon'ble High Court that all the facts claimed in the video about the defacto complainant are true and the words used in the video are suitable to address the defacto complainant. Further Mr. Nandakumar also telecast the video on 29/07/2022 appreciating the acts of the petitioner herein and again caused humiliation to the defacto complainant. The learned Public Prosecutor prayed to dismiss the petition.

5. Notice was issued to the defacto complainant. She appeared before the court and submitted the incidents in detail. The defacto complainant submitted that the petitioner herein so as to support his ex-employer Mr. Nandakumar, posted new videos in YouTube. That humiliated her and affected her privacy also. She further contended that her children had seen the video and asked her about it. Smt. Adv. K. Nandini appearing for the defacto complainant filed objection contending that the petitioner herein is in hand in glove with Mr. T.P. Nandakumar who was the former

employer of defacto complainant. Mr. Nandakumar was arrested for telecasting video containing nude visuals of defacto complainant. This provoked the petitioner herein and as a result he obtained an interview of the husband of defacto complainant herein and that was telecast through his channel. She contended that the said interview caused insult, hatred, abuse and ill-will against the victim who belongs to Scheduled Tribe. She also conceded to the submission by the petitioner that the entire videos were withdrawn now. She also argued that the children of the victim are not able to go to school because of the telecasting of the videos and sought to dismiss the petition.

6. Heard the learned counsel for the petitioner, learned counsel for the defacto complainant, defacto complainant and the learned Public Prosecutor. Perused the records.

7. The allegation against the petitioner is that he telecast a video containing private visuals of defacto complainant through his channel by name True TV having more than five lakh subscribers and thereby humiliated and insulted the defacto complainant who belongs to scheduled tribe. It is alleged that the petitioner herein is the friend of one Mr. Nandakumar who is another online channel journalist allegedly telecast videos insulting the defacto complainant herein. This prompted the petitioner herein to telecast the video involved in this case. The learned counsel for the petitioner fairly submitted before this court that all the controversial videos

were withdrawn from the online channel. The learned counsel appearing for the defacto complainant also conceded this fact. The learned counsel for the petitioner argued that this may be taken as a positive sign on the part of the petitioner and prayed to grant bail. I do agree with the learned counsel for the petitioner that the act of withdrawal is definitely a positive gesture. In this case the petitioner was given to the custody of investigating officer. On going through the report filed by the investigating officer it is seen that recovery of camera, memory card, hard disc used to capture and upload the visuals involved in this case were effected on 02/08/2022. The petitioner herein was arrested on 29/07/2022 and he is in custody since then. The learned counsel for the petitioner argued that the investigation is almost over and the further detention of the petitioner is not at all required. It is true that the recovery is effected. 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.

Dictated to the confidential Asst. transcribed and typed by her,
corrected and pronounced by me in open court on this the 12th
day of August, 2022.

Sd/-

Honey M.Varghese
Sessions Judge

sk/
comp. By:

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Order dated – 12..08..2022