

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 30TH AUGUST 2006 / 8TH BHADRA 1928

Bail Appl..No. 5349 of 2006()

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CRIME NO.432/2006 OF GURUVAYUR POLICE STATION

PETITIONER/ACCUSED:

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1. ANEESH KUMAR, M.D. STUDENT,  
ADICHUNCHANAGIRI INSTITUTE OF MEDICAL SCIENCES  
BALANGANGADHARANATH NAGAR, BELLUR,  
MANDYA DISTRICT, KARNATAKA.
  2. SACHIN, 'OCEANIC', MAJOR SANTHOSH ROAD,  
KOZHIKODE-11.
  3. SAUDAMINI, RESIDING DO.
- BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE:

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1. THE SUB INSPECTOR OF POLICE,  
GURUVAYUR POLICE STATION.
  2. STATE REP.BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.
- BY PUBLIC PROSECUTOR K. RAVIKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 30/08/2006, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**J.M.JAMES, J.**

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**B.A. 5349/2006**  
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**DATED THIS THE 30TH DAY OF AUGUST, 2006**

**O R D E R**

The petitioners are before this Court, under Section 438 Cr.P.C., as they are facing the allegations for the offence punishable under Sections 417, 420, 493 and 495 IPC read with Section 34 IPC.

2. It is alleged that the first petitioner, with the knowledge and consent of the petitioners 2 and 3, was married to one Harini, who was a nurse in the hospital, where the first petitioner was studying. The marriage took place, as per the Hindu Marriages Act, 1955, on 13.5.2005. However, the petitioners had suppressed the said fact and the first petitioner contracted marriage, as per the custom of the communities of the parties, with the defacto complainant, Dr.Dhanya Rajan, who is a degree holder in MBBS, and also studying her post graduation for ENT. The said marriage of the first petitioner with Dr.Dhanya was contracted on 9.4.2006 at Guruvayoor.

3. When the first petitioner fell sick and admitted in a hospital at Bangalore, the defacto complainant found Harini with a child, beside the first petitioner, nursing him. On enquiry, Harini informed the defacto complainant that she was married with the first petitioner. She is, therefore, his wife, and having a child from their wedlock. It was thereafter, the defacto complainant found that she had been deceived. Therefore, she came back to Guruvayoor and lodged a complaint before the Superintendent of Police, Thrissur, on 14.8.2006, narrating the facts.

4. As the police found that there are cognisable and non-cognisable offence in the complaint, under Section 155(4) Cr.P.C, the police investigated the matter and collected the materials, showing that the first petitioner was married at the time when he contracted marriage with the defacto complainant Dr.Dhanya, and the petitioners 2 and 3 had suppressed the fact, along with the first petitioner, about the earlier marriage of the first petitioner, from the defacto complainant and her

relatives. As they are apprehending arrest, the petitioners are before this Court, under Section 438 Cr.P.C.

5. I heard the arguments advance by the learned counsel. The counsel also brought to my notice about the legal applications of the non-cognisable offence, namely the offence under Sections 493 and 495 IPC, which are falling under chapter XX of IPC and also the necessity of following the procedure, under Section 198 Cr.P.C.

6. The counsel showed me a copy of the discharge summary of the third petitioner, the mother of the petitioners 1 and 2, which show that she is suffering from acute left MCA STROKE DM. The counsel also submitted that she cannot freely move about.

7. After considering the facts at length, together with law that are placed before me, I direct the petitioners 1 and 2, to surrender before the Judicial Magistrate of First Class, Chavakkad, on 12.9.2006 at 11.00 a.m., after serving copy of the bail application, that

may be preferred by them, well in advance, to the APP of that Court.

8. APP shall take instructions from the Investigating Officer, and the learned Magistrate shall hear both the petitioners 1 and 2 as well as the prosecution and pass appropriate orders on the applications, that may be preferred by either side, on merit.

9. In the event of the arrest of the third petitioner, Saudamini, she shall be released on bail, on she executing a bond for Rs.20,000/-, with two solvent sureties, each for the like sum, to the satisfaction of the Investigating Officer, arresting her.

The application is disposed of as above.

**J.M.JAMES**  
**JUDGE**

mrCS