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In the High Court of Kerala
(BEFORE K.T. SANKARAN, J.)

Shahan Sha A. & Another
Versus
State of Kerala

Bail Appl. No. 5288 & 5289 of 2009
Decided on December 9, 2009

ORDER

1. When these Bail Applications came up for hearing on 29th September 2009, the following order was passed:

"These Bail Applications are filed by Shahan Sha and Sirajudeen, the accused persons in Crime Nos. 1102 of 2009 of Tripunithura Hill Palace Police Station and Crime No. 451 of 2009 of Peroorkada Police Station, for anticipatory bail under Section 438 of the Code of Criminal Procedure. The offences alleged against them are under Sections 120-B, 295-A and 377 read with Section 34 of the Indian Penal Code.

2. In this order, the names of the victim girls are not disclosed. No person, including the media, should disclose their names. For the sake of convenience, I would refer to the victim girls as the "Hindu girl" and the "Christian girl". It would appear that the Hindu girl fell in love with Shahan Sha, the first petitioner in these Bail Applications. Shahan Sha is a Muslim. The victim girls were studying for MBA Course. They are friends. Shahan Sha was their senior student in the college. At one point of time, he was expelled from the college. It would appear that the relationship between the Hindu girl and Shahan Sha started as a result of a telephone call. The

Intimacy developed. From the inception onwards, it is alleged that Shahan Sha spoke ill about Hindu religion and its tenets, beliefs and traditions. The Hindu girl was taken to Shahan Sha's house. She was taught the custom of the Muslim community, the mode of prayers and what should be done by a person in the normal life as a Muslim. Shahan Sha's mother was there in the house and she co-operated with Shahan Sha. Shahan Sha was constantly compelling the girl to convert to Islam. She was in utter confusion. It is alleged that Shahan Sha stated to the girl that unless she converted into Islam immediately; their relationship would come, to an end. At last, she agreed.

3. In the meanwhile, Shahan Sha and the Hindu girl had contact with one Shaji, who was running a DTP Centre. Shahan Sha and the girl used to go there for taking copies of documents. It is alleged that Shaji used to speak ill about Hindu and

Christian religions. The Hindu girl and the Christian girl used to go to the shop of Shaji. The girls were also told that their respective religion is not good and the only way to attain salvation is to embrace Islam.

4. Without the knowledge of the Christian girl, the Hindu girl was once taken to Ponnani by Shahan Sha. They stayed in a room. It would appear that Shahan Sha made some sexual advances towards her. However, it did not culminate in sexual intercourse.

5. The pressure mounted on the two girls to convert to Islam. They were directed to meet a person in a mosque. He also pressurized them to immediately convert to Islam. The girls were directed to come out of their house. Planning was made and the girls were instructed to comply with the directions given by Shahan Sha and his associates.

6. Accordingly, at about 3 AM on 18.7.2009, the Hindu girl was ready to come out of her residence. After some time, one Yasin gave her a missed call, which was the indication to come out of the house. She came out of the house with the help of Yasin. She was taken in a Scorpio car. Two ladies wearing Pardah were there in the car. After the Hindu girl entered into the car, she was compelled to wear Pardah. She obeyed.

7. While travelling in the car, the compact discs of Popular Front, an alleged extremist organisation, was being played. They proceeded to Emakulam.

8. The Christian girl also came out of her residence in the early hours. In a similar manner. The persons who took the Christian girl met the Hindu girl at Emakulam. The Hindu girl was taken to a house at Emakulam in a different car. In that car, one Ali

and Nishad, stated to be the activists of Popular Front, were travelling. The Christian girl was also brought to that house.

9. The girls were directed to contact their parents over mobile phone from a place different from the place where they were taken, in order to avoid locating them by ascertaining the mobile tower station. Accordingly, from a different place, they contacted their parents and as directed, they stated to their parents that they were going to Ponnani to convert to Islam. The telephone call was snapped thereafter. The two girls stayed in the house at Emakulam fill the next day. On the next day, they were taken by one Khadeeja, who is stated to be the organiser of the Women Wing of Popular Front One Nishad was also there with her. They took the girls in a Lancer car to Malappuram. They reached the residence of Haneefa Haji. After ten minutes, they were taken to another house at Kondotty. They were made to stay there for two weeks. Thereafter, they were taken to the house of Haneefa Haji, where they stayed for two weeks. The girls were visited by the members of Popular Front regularly.

10. There is no case that the Christen girl was in love with anybody. But when the girls were staying at the house of Haneefa Haji, several persons were brought to that house to see the Christian girl. Though a Dentist who came to see the Christian girl was willing to marry her, his parents were not willing. It is alleged that the proposal was to give in marriage the girls to somebody else. On 6.8.2009, Shahan Sha and one Shiraj met the Hindu girl and asked her whether she was wiling to many Shahan Sha. The girls came to know that the plan was to take them to Bangalore and to give them in marriage to somebody else. Two or three persons came there to see the Christian. girl and to marry her. At last Shahan Sha brought his friend Sirajudeen, (the second petitioner) a K.S.R.T.C. Bus conductor to the scene.

11. Meanwhile, a Habeas Corpus petition was filed by the parents of the missing

girls. A direction was issued by a Division Bench of this Court to find the whereabouts of the missing girls. On 12.8.2009, the girls were taken by Shahan Sha and Shiraj to an Advocate's office at Calicut. Two "deeds of agreements to marry" were executed. The girls were made to sign the documents. One agreement was between Shahan Sha 'and the Hindu girl and the other was between Sirajudeen and the Christian girl. They were brought back to Haneefa Haji's house. During night, Shahan Sha stayed With the Hindu girl and Sirajudeen stayed with the Christian girl. On that night, the Christian girl was subjected to unnatural sex. It is alleged that an offence under Section 377 of the Indian Penal Code was committed.

12. Later, Shahan Sha and Sirajudeen appeared before the High Court along with

the girls. The girls were not willing to go with their parents. The court persuaded them. At last, they agreed. It was with certain conditions that they were prepared to go with their parents. Those conditions were stipulated by Shahan Sha and Sirajudeen. After a few days, the girls appeared before Court and stated that they were not willing to go with Shahan Sha and Shirajudeen, The Division Bench permitted the girls to go with their parents. However, the articles belong to the girls were with Shahan Sha and Shirajudeen. It would appear that they "gracefully" agreed to return the articles to the girls. The Division Bench was also pleased to pass an order not to arrest Shahan Sha and Sirajudeen for a limited period. The Division Bench made an attempt to settle the matter between the parties, The parents of the girls stated that they were not willing for a settlement. Their view was that let the law take its own course. The Habeas Corpus petition is stated to be pending.

13. The case diary would further reveal that several compact discs were given by Shahan Sha to the girls, Most of them were obscene films. Several books were also given to them to persuade them to convert to Islam.

14. The girls stated to the police that Shahan Sha and Shaji specifically directed them not to disclose to the police that the activists belonging to Popular Front were assisting Shahan Sha and Sirajudeen for implementing the idea of converting the girls to Islam. The girls are of the view that in the whole episode, their religious faith was questioned and Shahan Sha, Shaji and Sirajudeen insulted the religious faith and tenets of the respective religion of the girls with deliberate and malicious intention of outraging their religious feelings.

15. I have perused the case diary file. There are indications that several similar instances took place in the State of Kerala. It is slated that there is a movement or project which is called "Romeo Jihad" or "Love Jihad" conceived by a section of the Muslims. The idea appears to be to convert girls belonging to other religions to Islam. It is stated that Muslim boys are directed to pretend love to girls of other religion and get them converted to Islam. Lot of money is available for executing the project There are men whose help is available at any time. Organisations are also there to implement the project

16. Before disposing of these Bail Applications, I am of the view that some additional information with regard to the number of similar cases which occurred during the last three years in the State of Kerala is required. The Director General of Police shall file a statement within a period of three weeks from today, touching upon the following aspects: (1) Whether there is a movement called "Romeo Jihad" or "Love Jihad"

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working in the State of Kerala? (2) If so, what are their plans and projects? (3) Which organisations are involved in such activities? (4) Where does the money come from for all these activities? (5) How many school and college students and youngsters were thus converted into Islam during the last three years? (6) Does the alleged project involve an all India basis and magnitude? (7) Has it got financial support from abroad? (8) Is there any connection between the "Love Jihad" movement and counterfeiting, smuggling, drug trafficking and terrorist activities?

17. Every citizen of India is entitled to freedom of conscience and the right freely to profess, practice and propagate religion as enshrined in Article 25 of the Constitution of India. This right does not extend to the right to compel a person professing a religion to convert to another religion. Compulsion is alien to the right conferred under Article 25 of the Constitution of India. The freedom of one man should not entitle him to encroach upon the freedom of another.

18. In the facts and circumstances, I think the views of the Central Government are also material in decking the questions involved in the case. Issue notice to the Assistant Solicitor General of India. Registry shall furnish a copy of the Bail Applications and a copy of this order to the Assistant Solicitor General of India. A copy of this order shall also be communicated by the Registry to the Secretary, Home Affairs, New Delhi. A statement shall be filed by the appropriate person on behalf of the Central Government pointing out their views in the matter of combating the activities of compulsive conversion of religion. The statement shall also indicate all the necessary information regarding "Romeo Jihad" or "Love Jihad". The statement shall be filed within three weeks.

19. Learned counsel for, the petitioners submitted that the Division Bench was pleased to issue an order not to arrest the petitioners till 30.9.2009, pending disposal of the Habeas Corpus Petition. The counsel submitted that there may be an interim direction not to arrest the petitioners. I am not inclined to pass any such order in the facts and circumstances of the case.

20. Learned counsel for the petitioners submitted that the Division Bench was convinced that no offence was committed by Shahan Sha and Shirajudeen and, therefore, there is no ground on which anticipatory bail should be refused to the petitioners. I am not inclined to accept the contention of the learned counsel for the petitioners. The question whether Shahan Sha and Shirajudeen were guilty of any offence was not in issue before the Division Bench. Therefore, there was no opportunity for the Division Bench to pronounce upon such matters. In fact, the Division Bench has not stated anything, in the various orders passed by them, on that aspect

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21. The counsel argued that the victim girls were present before the High Court on three occasions and the Honourable Judges of the Division Bench had occasion to interact with the girls. The counsel points out that the girls did not state to the Honourable Judges that they (the girls) were compelled to convert to Islam or that the offence alleged was committed by Shahan Sha and Sirajudeen. I do not think that this is a material fact while considering the application for anticipatory bail. The questions

which came up for consideration before the Division Bench were entirely different. The orders passed by the Division Bench do not, in my view, affect the investigation of the case or the arrest of the petitioners. Post after two weeks."

22. The Director General of Police, Kerala, filed a statement dated 18th October 2009, the relevant portion of which is extracted below:

"2. It is submitted that on receipt of the order dated 29.10.2009, enquiries were made to ascertain whether any such compulsive religious conversion in the manner referred to in the order is taking place in the State of Kerala. The enquiries thus conducted have yielded the following information with regard to the questions raised by this Hon'ble Court in respect of compulsive conversion.

Qn. (1) Whether there is a movement called "Romeo Jihad" or "Love Jihad" working in the State of Kerala?

Ans. No organization or movement called "Love Jihad" or "Romeo Jihad" is so far identified as working in Kerala.

Qn. (2) If so, what are their plans and projects?

Ans. As stated above, there is no clear evidence regarding the operation of such an organization.

Qn. (3) Which organizations are involved in such activities?

Ans. It is not established that any particular organization is actively engaged in such compulsive religious conversions.

Qn. (4) Where does the money come from for all these activities?

Arts. No reliable evidence is so far available in this regard.

Qn. (5) How many School and College students and youngsters were thus, converted into Islam during the last three years?

Arts. Except for the two cases under consideration now, no specific complaints

have been received regarding such compulsive love based conversions. In the two cases under consideration before the Hon'ble Court, Police have registered cases and are actively investigating the matter.

Qn. (6) Does the alleged project involve an all India basis and magnitude?

Ans. There is no clear evidence so far regarding this aspect.

Qn. (7) Has it got financial support from abroad?

Ans. There is no reliable evidence so far regarding financial support from abroad.

Qn. (8) Is there any connection between the 'Love Jihad' Movement and counterfeiting, smuggling, drug trafficking and terrorist activities?

Ans. There is no concrete information regarding this,

3. Further, it is humbly submitted that certain allegations have recently cropped up indicating that some organizations have devised plans for compulsive or deceitful religious conversions by winning over girls. The Police is seriously looking into these allegations and appropriate legal action would be initiated if the allegations are found to be true in any particular instance. No actionable information has been received by the Police so far to confirm the fact that any organization is indulging in such activities.

4. However, it is understood that a very large number of inter-religious marriages are taking place every year and that many conversions are taking place on that

basis. The exact details or the exact numbers of such marriages are not readily available with any police agency. At the same time, there are reasons to suspect that there are concerted attempts to persuade girls to change their religion after they fell in love with Muslim boys. There is also unconfirmed source information received by the department that some groups are actively working among youngsters encouraging conversions by such techniques; that young men who are engaged in such pursuits are said to be receiving funds from abroad directly or indirectly for purchasing clothes and vehicles and for availing legal help etc, that they have links with other places in India also.

5. In view of the existence of such complaints, allegations and source information, the Police are now actively trying to collect maximum information in this regard and to specifically identify actionable Instances. The fact is

that hardly anybody comes forward with any complaint to the Police in these matters. However, the Police will remain pro actively vigilant and take action in ail instances where any reasonable suspicion exists that undesirable illegal liaisons are being attempted with any ulterior purpose of compulsive conversion.

6. It is humbly submitted that police would take stem lawful action against compulsive or deceitful religious conversions whenever and wherever such incidents are discovered. The intelligence agencies of the Kerala Police are also being tasked to monitor the activities of any organizations and groups alleged to be indulging in compulsive religious conversion."

23. When the Bail Applications came up for hearing, it was noticed that some of the answers furnished in the Statement filed by the Director General of Police are vague and that many of the statements do not reconcile with each other. The Director General of Police was directed to produce in a Sealed cover the reports which he received from the District Superintendents of Police and/or any other subordinate officers and all other materials on the basis of which the statement was prepared. It was also observed that the Director General of Police may also file an additional statement, if found necessary by him.

24. Accordingly, the Director General of Police filed another statement dated 9th November 2009. For the sake of completeness and convenience, the statement is extracted below:

"It is submitted that this Hon'ble Court, by order dated 29.09.2009, had directed me to file a statement and to give answers to eight questions specified in the order. Accordingly, I had submitted a statement before this Hon'ble Court based on information available from subordinate units. After perusing my statement, this Hon'ble Court vide order dated 26.10.2009 directed me to produce the reports and materials based on which my statement was submitted and also to file an additional statement, if felt necessary. Accordingly, this statement is filed.

2. I submit that the separate answers to the eight specific questions raised by this Hon'ble Court were made on the basis of the contents of the reports received from various subordinate officers, through written reports and oral submissions from them. The confirmation of the oral submissions also were subsequently received in writing. Such information indicated that no concrete and sustainable evidence was available to establish that an organized movement called 'Love Jihad' was operating in the State of Kerala. There was no

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reliable evidence in such reports to indicate a specific positive or definitive answer to many of the questions posed by the Hon'ble Court.

3. I submit that, at the same time, as part of the above reports, I had received some information from some units based on source inputs, which suggested the clandestine designs of certain groups aimed at religious conversion through deceitful means, inter alia, under the guise of love. These inputs form part of reports marked No. 16 to 18 in the sealed cover. The contents of these reports were relevant to the questions posed by this Hon'ble Court but were at variance with the contents of the other 15 reports. At the same time, the contents of these three reports also were not backed up with suppportive evidence to come to a positive finding. Mention was made of these aspects also in the latter part of the statement dated 18.10.09 submitted before this Hon'ble Court to give a complete picture of the matter. The information contained in the three reports, though not substantiated, was relevant in the consideration of the questions put to me by this Hon'ble Court and hence I had submitted those aspects also.

4. It was specifically submitted in para 4 of my report dated 18.10.09 that this part was based on source information. Source reports are often based on hearsay. They are usually not supported by any direct evidence. Such reports often require to be clarified and substantiated by sustainable evidence. They also cannot be asserted as true unless there is supporting material, It may be noted that no cogent and coherent materials were available in the three reports mentioned above to make an unambiguous statement regarding the truth of the allegation of compulsive religious conversion. However, the contents of the said reports warranted further enquiries which I had caused to be made, as already submitted in para 05 of my report dated 18.10.2009.

5. It is further submitted that my separate answers to the specific questions are based on such set of facts which could be substantiated by reliable evidence. However, the substance of the source information based on which enquires were taking place were also brought to the notice of this Hon'ble Court. It is respectfully submitted that I could not come to a definite all inclusive finding due to the divergence which existed in the contents of reports received from different subordinate units which formed the basis of my report to this Hon'ble Court, The reports so received are submitted herewith in a sealed cover, numbered as 1 to 18 as mentioned earlier, in obedience to the

direction of this Hon'ble Court"

25. I have examined the eighteen numbers of reports produced in the sealed cover. Fourteen out of the eighteen reports are cryptic. One report says: "I am herewith forwarding a NIL report favour of information and further necessary action". The other thirteen reports generally answer question No. 1 as "not detected in the District"., "the activities of 'Romeo Jihad' or 'Love Jihad' has not been noticed so far in the District", "not working in the District", "there is no such organization working in the District" etc. The rest of the questions are answered as "NA" or "not applicable". No useful information, either way, is disclosed in tile aforesaid fourteen reports, it is also not

stated in the reports on what materials or Information or enquiry those reports were prepared.

26. One out of the eighteen reports mentions about the religious conversion centres run by Muslims and Hindus in Kozhikode city.

27. Three out of eighteen reports, provide some details. One report says about the functioning of an organization called 'Smart Front' in two colleges.

28. Another report says that the enquiry by the Special Branch reveals that "fundamental outfits like NDF, PFI, Campus Front has roots in the college campuses" In the City referred to therein. Referring to Campus Front, it is stated in the report thus: "As per the available information, the plan of this organization is to trap brilliant upper caste Hindu and Christian girls from the well to do family, especially those who are studying for professional courses and employed in IT sectors." It is also stated in the report thus:

> "3. It is believed that Muslaim Organisation like Muslim Youth Forum and Musalim Womens organization like Thasreen Millat, Shaheen Force, Popular Front of India, National Democratic Front and its students organizations See Campus Front are the organizations behind the so called Love Jihad movement
>
> 4. There is no concrete evidence to show the financial status of the organization. But it is known that they get support and financial assistance from National Democratic Front and Popular Front of India. Some other muslim fundamental organizations are also arranging money from some foreign countries in Gulf. But the veracity of this information has to be ascertained."

29. The aforesaid report also says that more than 100 instances of religious conversion took place in Thiruvananthapuram District with the help of the activists of the organizations referred to above. The names and address of the boys and girls in 31

such Cases are shown in the report. The report further says:

> "6. So far there is no evidence to show that the love jihad organizations have operations in all over India. But it is said that the programme was started during 1996 with the blessings of Muslim Organisations.
>
> 7. No reliable information has been received with regard to the financial assistance from aboard for the so catted love jihad activities. But during the enquiry it was found that some active sympathizers had gone to Gulf and they are giving financial support to their supporters. But the veracity of this is yet to be ascertained."

30. The last out of the eighteen reports contains the following details. There is no information that any organization under the name and style "Love Jihad" or "Romeo Jihad" is functioning in Kerala. However, the students wing of NDF and PFI, known as Campus Front is known to be promoting religious conversion in educational institutions and professional colleges. This report also mentions about the involvement of Muslim Youth Forum, Shaheen Force etc. In these activities. Certain organizations in Saudi Arabia are providing financial assistance to these activities under the head "scholarship" to the youth. Accurate number of religious conversions are not available. As per one statistics, during the last four years, a total number of about 3000 to 4000 religious conversions after love affairs have taken place. Another statistics is that 2800 girls were thus converted into another religion. In Kasaragod, Kannur, Kozhtkode and Malappuram Districts, 1600 incidents of such conversions have taken place. The report also indicates about similar activities in Uttar Pradesh, Pune in Maharashtra, Bangalore

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in Karnataka where it is learnt that several Hindu girls were converted to Islam. The report concludes by saying mat the Intelligence Wing is of the view mat such love marriages may invite frictions in the society.

31. It is interesting to note that though the last mentioned report shows that 1600 incidents of conversions had taken place in Kasaragod, Kannur, Kozhikode and Malappuram Districts, the reports received from the District Superintendents of those Districts do not indicate the same, it is also interesting to note that though the Superintendents of Police state mat no incidents of such conversions were noticed, some of the superior officers have reported otherwise.

32. On 26-10-2009, the Assistant Solicitor General of India submitted that he had received oral instructions in the matter. He sought for further time to file a statement signed by a responsible person. Time was granted till 11th November 2009. On that date also, two weeks' further time was prayed for and it was granted. The case was

posted to 1st December 2009. On mat date, the Assistant Solicitor General submitted that a statement was being filed. A copy of the statement was handed over in open court. The copy handed over was a letter dated 18th November 2009 sent by Sri. Y.K. Baweja Director (NIC), Ministry of Home Affairs to the Assistant Solicitor General of India (enclosing the statement to be filed before High Court) and a copy of the statement. However, it was later reported by the Registry that no statement was filed in Court. The copy handed over in open court is taken on record. The submissions made by the Assistant Solicitor General of India were also in tune with the statement. The statement is not signed by anybody, in the statement submitted on behalf of the Ministry of Home Affairs (referred to above), it is stilted that secularism is a basic principle of the Indian Constitution. After quoting Article 25 of the Constitution of India, it is stated thus:

> "2. The freedom guaranteed by the Constitution is to profess, practice, and propagate religion. The act of practice is concerned primarily with religious worship, ritual and observations. Propagation is concerned with right to communicate beliefs to another person or to expand the tenets of one's religion but does not include a right to forcible or compulsive conversion. Any use of force or allurement for propagation of religion is illegal and may cause law and order problems. 'Public Order' and Police' are the State subjects as per the Constitution of India and hence prevention, detection, registration, investigation and prosecution of crimes are primarily the concerns of the State Governments/UT Administrations.
>
> 3. The State Governments can enact legislations providing for prohibition of conversions from one religion to another by use of force or by allurement/inducement or fraudulent means. The State Governments of Arunachal Pradesh, Gujarat Himachal Pradesh, Madhya Pradesh and Orissa, by exercising their powers in this behalf, have enacted legislations to prohibit any person to convert or attempt to convert, either directly or otherwise, any person from one religious faith to any other religious faith by the use of force or by inducement or by any fraudulent means, which are the measures to maintain public order. The Centre is not contemplating any move to make a centralized law on the issue."

33. Meanwhile, on 21st October 2009, the petitioners filed petition in each case to withdraw the Bail Applications. The relinquishment letter issued by the counsel appearing for the petitioners was also attached with the petitions. The Registry noted defect in

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the application. Instead of re-presenting the same, the petitioners sent the applications to the Registrar, High Court of Kerala, by registered post. The procedure adopted by the petitioners was not proper.

34. In the petition dated 21st October, 2009, the petitioners have narrated the various incidents and how they happened to take the girls out of their homes to rescue them from the alleged illegal confinement of their parents. It is also stated in the petition thus:

> "5. Considering the feeling of insecurity, the 1st petitioner offered to marry Ms…….(name omitted). The 2nd petitioner who had dose acquaintance with the 2nd petitioner for nearly 2 years decided to marry Ms……. (name omitted). Petitioners were advised to swear to an affidavit before the Notary to be shown before the police officiate mat they are together Bring as husband and wife and that there is no compulsion in their relationship and that they embraced Islam voluntarily without any force or coercion. The said affidavit was sworn on 12-8-09. On the same day evening, the petitioners married Ms…… and respectively as per Islamic rites at the house of Haneefa Haji at Kozhikkode. Since the marriage was taken place not at the instance of any Mahal, no certificate could be obtained for proving marriage."

35. In paragraph 16 of the petition sent by the petitioners, it is stated thus:

> This Hon'ble Court by Order dated 29-9-09 was pleased to pass an elaborate order that has totally shattered the petitioners' faith in the impartiality of this Hon'ble Court. The use of Terminologies like Hindu Girl, Christian Girl and Muslim in the order virtually caused communal polarization across Kerala and even beyond Kerala Territory. Though the court, out of concern for the future of the "victim girls" preferred to keep their name in anonymity and preferred to call them as Hindu girl and Christian girl, not appreciating its consequence of causing communal division in the society. The Court not satisfied by taking the name of the Petitioner, even described him as Muslim lest people may miss the religious Identity of the Petitioner. The court Just allowed it to be a ploy in the hands of the communal forces that laid the trap of dividing the society on communal grounds. What happened is unfortunate not Only for the Petitioners but also for the institution as well. The damage it has done is colossal. The media also followed suit"

36. In the petition, there are several other insinuations as well against the Court After quoting several sentences in the order dated 29-9-2009, the petitioners have

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made comments which border on contempt of Court. I have no doubt that the petition was prepared by somebody else not by the petitioners. The intention of making a scathing attack on Court is also obvious. However, I do not propose to proceed further in the matter. I am inclined to forget and forgive, The petitioners conclude the petition by quoting from the Holy Quraan. I quote the statement

> "In the circumstance Petitioners pray that the above petition for anticipatory bail may be allowed to be withdrawn as not pressed and we may be left to our fate allowing the law to take its own course for the Petitioners believe that "If Allah afflicts you with evil, none can remove it but HE: And if HE blesses you with good

fortune, hone can prevent it Know that HE has power over all things" (Quraan. Sura - 6 Verse 17.)"

37. I leave it at that. But, in the facts and circumstances of the case, I am not inclined to allow the petitioners to. withdraw the Applications for Anticipatory Bail.

38. The "Association for Human Rights (AHR) has filed Criminal Miscellaneous Application No. 6651 of 2009 for the following reliefs:

"(A) ORDERS directing the Respondent State of Kerala, Kerala Police Department, the Media persons, Print and visual to refrain from and to avoid further deployment of the usage "LOVE JIHAD" OR "Romeo Jihad" in relation to investigations of love trap cases conducted in Kerala: AND

(B) to pass such other or further orders as are in all the circumstances of the case deemed fit, just and necessary to restore sanity in public/civic life in the State of Kerala."

39. Since the affected parties are not parties to the application and the subject matter dealt with in the application is beyond the scope of the matters involved in the case, I am not inclined to entertain the Application. Leaving open the right of the Petitioner in the application to seek appropriate remedy, Crl. Misc. Appln. No. 6651 of 2009 is dismissed.

40. Our nation consists of citizen belonging to different religions, communities, castes and creeds. All are citizens of India. All have equal rights. All the citizens have the fundamental rights enshrined in our Constitution. A citizen of India is entitled to freedom of conscience and the right freely to profess, practice and propagate religion as enshrined in Article 25 of the Constitution of India. Our laws do not prohibit inter-religious or inter-caste marriages. True, religions have their own sanctions, faith and culture. When pitted against the Constitution and the laws, the religious sanctions cannot override the

former. Our Constitution and the laws take care of religious faith, traditions and custom.

41. Inter-religious marriages, arising out of love affairs or otherwise, are to be recognized and promoted. To solemnize such marriages, there need not necessarily be any conversion of one party to the marriage from one religion to another. If a boy or girl believes that a marital union is not possible without the other party to love converting to his or her religion, it is his or her faith. But in such cases, it is not love that is prominent, but religion. Forcible, compulsive or deceitful conversion take place in such cases. Nobody would say that it is a healthy trend. Love is driven. It has no barriers of religion, caste or creed. But under the pretext of love, there cannot be any forcible, compulsive or deceitful conversion. It destroys the divine and sublime love.

42. The Honourable Supreme Court in *Lata Singh* v. *State of U.P.*, (2006) 5 SCC 475 has emphasized the need for protecting the parties to Biter-caste and inter-religious marriages. It was held. This is a free and democratic country, and once a *person become major* he or she can *many whosoever he/she* likes."

43. From" some of the reports submitted by the police officers concerned to the Director General of Police, it is clear that there is a concerted effort to convert girls belonging to particular religions to another religion. It is also dear that this is being done with the blessings of some outfits mentioned Hi the reports. This should be of great concern to the people at large and to the Government. The Government is bound to protect the fundamental rights ami civil rights of citizens. Article 25 of the

Constitution of India does not entitle a person to indulge in activities for compulsive religious conversion. Compulsion is alien to the right conferred under Article 25 of the Constitution of India. The freedom of one should not entitle him to grab the freedom of another.

44. The rights of the parents to bring up their children in the way all of them like, also cannot be lost sight of. Simply because a boy or girl has become major, that does not mean that the parents have no say in the matter of their future and their career. The parents are entitled to protect their children. The parents are entitled to advise their children and mould their career. The right conferred under Article 25 of the Constitution does not enable a stranger to deny the rights of the parents of the girls. Article 25 is aimed at protecting individual freedom, it Is not aimed at destroying the family set up and culture, in our country, there are haws for protecting the rights of parents. There are also laws compelling the parents to provide for even major children, in certain circumstances. The laws in our country are aimed at protecting the rights of our citizens and protecting the culture and traditions of our citizens.

45. The fundamental right enshrined under Article 25 of the Constitution of India

that "all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion" is subject to "public order, morality and health and to the other provisions of Part III of the Constitution of India. Educational institutions, professional colleges and other institutions where the young people are engaged in their pursuit for learning and acquiring knowledge, are not certainly the breeding grounds for propagating religion. The framers of the Constitution would not have thought of converting educational institutions as the venue for propagating religion and for promoting religious convulsion.

46. As rightly pointed out in the statement submitted on behalf of the Ministry of Home Affairs, Government of India, the act of practice of religion is concerned primarily with religious worship, ritual and observations. Propagation takes in the right to communicate beliefs to another person or to expand tie tenets of one's religion. It does not include a right to forcible or compulsive conversion. Any use of force or allurement for propagation of religion is illegal and may cause law and order problems.

47. The statement submitted on behalf of the Ministry of Home Affairs, Government of India, is also relevant on another aspect Some of the State Governments have enacted legislations to prohibit any person to convert or attempt to convert, either directly or otherwise, any person from one religious faith to any other religious faith by the use of force or by inducement or by any fraudulent means. In the scenario in tie State of Kerala, it is for tie people of the State, the Government and the legislators to consider whether any such law should be enacted for the State of Kerala. Let not our people fight against each other in tie name of religion and faith. Let not our children be compelled to deviate from their path of pursuit of knowledge and learning. Let our children turn out to be the best citizens of our nation. Let them live freely in the joyous atmosphere of educational institutions. Let love be sublime, divine and free from any other consideration, If some of the students want to become religious scholars., let them do so, but not at the peril of other students.

48. Considering the facts and circumstances of the case and the nature and gravity of the offence alleged against the petitioners, I am not inclined to grant the discretionary relief under Section 438 of the Code of Criminal Procedure in their favour. The petitioners are not entitled to the discretionary relief under Section 438 of the

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Code of Criminal Procedure. For the aforesaid reasons, the Bail Applications are dismissed.

49. The Registry will send a copy of this Order to the Chief Secretary' to the Government, Government of Kerala.

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