

George Robln Vs. State of Kerala

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Court : Kerala

Decided On : Dec-24-2012

Judge : Honourable Mr.Justice a.M.Shaffique

Appellant : George Robin

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE N.K.BALAKRISHNAN MONDAY, THE 24TH DAY OF DECEMBER 2012 3RD POUSHA 193 Bail Appl..No. 9383 of 2012 () ----- CRMC.2319/2012 of SESSIONS COURT, ERNAKULAM CRIME NO.1294/2012 OF ERNAKULAM TOWN NORTH POLICE STATION ----- PETITIONER/ACCUSED NO.1 :- ----- GEORGE ROBIN, AGED 3 YEARS S/O.RAPHEL, AANAMTHURUTHY HOUSE, FELIX ROAD THAMMANAM, ERNAKULAM DISTRICT. BY ADVS.SRI.B.RAMAN PILLAI SRI.R.ANIL SRI.M.SUNILKUMAAR SRI.ANIL K.MOHAMMED SRI.SUJESH MENON V.B. SRI.T.ANIL KUMAR SRI.MANU TOM SRI.THOMAS ABRAHAM (NILACKAPPILLIL) RESPONDENT/COMPLAINANT :- ----- STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR COURT OF SESSIONS, ERNAKULAM. PUBLIC PROSECUTOR SMT.V.H.JASMINE THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 24-12-2012, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: jvt N.K.BALAKRISHNAN, J.

----- B. A. No.9383 of 2012 ----- Dated
this the 24th day of December 2012

ORDER

Petitioner is the first accused in Crime No.1294/2012 of Ernakulam Town North Police Station. The offences alleged against him and other accused are under Secs.341, 506(i), 324, 354, 328 and 376 r/w 34 IPC. Petitioner surrendered before court on 28.9.2012. Learned Public Prosecutor submits that charge sheet has already been filed.

2. Learned counsel for the petitioner submits that considering the fact that the petitioner has been in custody for 89 days, he may be granted bail.

3. This request is strongly opposed by the learned Public Prosecutor. The victim is a 7 year old girl. If so, the offence will fall under Sec.376 (2) (f) of IPC. Petitioner was stated to have some relationship with the mother of the B. A. No.9383 of 2012
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2. :- victim girl.

4. The allegation is that the accused administered some drug and because of the effect of the same, the mother fell asleep and then the petitioner raped the girl aged 7 years. He was stated to have done the same on 25.2.2012 and 18.3.2012. Based on the complaint given by the mother, FIR was registered and investigation was conducted. After the complaint was filed, the victim girl was taken to the General Hospital, Ernakulam.

5. Learned counsel for the petitioner submits that when the doctor examined that girl, she had told the doctor that the accused herein who was described by her as 'Robin Uncle' had pitched or did something at/on or in her vagina and that no complaint of rape as such was made. But it may be remembered that the girl is only aged 7 years. One cannot expect a girl of such a tender age to narrate the entire incident. It was for that purpose, the victim girl was taken before a Psychologist. There is a detailed B. A. No.9383 of 2012 -:

3. :- Psychological Evaluation and Intervention Report issued from General Hospital which shows that the girl was actually raped by the accused. So many other aspects which would throw light on the alleged act of the accused are also mentioned therein.

6. Learned counsel for the petitioner submits that when the girl was at first taken to a private hospital, she had only complained of itching on her private parts. That was prior to the lodgment of the F.I.Statement. The prosecution contends that at that time, the real incident did not come to light. From that private hospital, for fungal infection, some medicine was given. That cannot in any way militate against the prosecution, the learned Public Prosecutor submits. It is also pointed out that in all probability, the victim girl aged 7 years did not then disclose the entire fact since the accused was having relationship with the mother of the girl as well. The allegation made by the girl to the doctor attached to the B. A. No.9383 of 2012 -:

4. :- General Hospital and the Psychological Evaluation and Intervention Report would prima facie show that the girl was actually raped by the accused. (This has been stated so now because the learned counsel for the petitioner has advanced argument to the effect that there is no material to show that the girl was raped as alleged by the prosecution). Learned counsel for the petitioner submits that since the petitioner has been in custody for nearly 89 days, he may be granted bail. The charge sheet has already been filed.

7. Learned Public Prosecutor submits that if the accused is granted bail certainly that would hamper the smooth trial. The 7 year old girl and even her mother would not be in a position to give evidence against the accused. So, according to the learned Public Prosecutor, in order to get at the truth the accused should be denied bail and the trial should be conducted at the earliest. Considering all the aspects, I find no reason to grant bail to the petitioner at this stage. The learned B. A. No.9383 of 2012 -:

5. :- Magistrate will commit the case to the Court of Sessions at the earliest so that the trial itself can be expedited as early as possible. This bail application is hence dismissed. N.K.BALAKRISHNAN, JUDGE. Jvt