

Assainar Vs. State of Kerala

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Court : Kerala

Decided On : Dec-31-2012

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Assainar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN MONDAY, THE 31ST DAY OF DECEMBER 2012 10TH POUSHA 193 Bail Appl..No. 9508 of 2012 () ----- CRIME NO.559/2012 OF ADHOOR POLICE STATION, KASARAGOD DISTRICT ----- PETITIONER(S)/ACCUSED NOS.1 TO 3.----- 1. ASSAINAR,S/O. MUHAMMED KUNJI, AGED 2 YEARS, PALLIKKAL HOUSE, BAVIKKARA, MULIYAR VILLAGE AND P.O., KASARAGOD DISTRICT.

2. ABOOBACKER, S/O. MOTTAYIL KHADER,AGED 3 YEARS, MOTTAYIL HOUSE, MANJANADUKKAM, KULATHUR VILLAGE AND P.O., KASARAGOD DISTRICT.

3. USMAN,S/O. MUHAMMED KUNJI,AGED 2 YEARS, PALLIKKAL HOUSE, BAVIKKARA, MULIYAR VILLAGE AND P.O., KASARAGOD DISTRICT. BY ADVS.SRI.I.V.PRAMOD SRI.MANSOOR.B.H.

RESPONDENT(S)/COMPLAINANT/STATE :

----- STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-682 031. BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31-12-2012,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING: sts
P.BHAVADASAN, J.

----- BA No.9508 of 2012

----- Dated this the 31st day of December 2012

Order The allegation against the petitioners is that while the Tahsildar concerned was in the act of seizing the illegally mined sand, they obstructed him from discharging his duties. The petitioners would point out that the allegations are totally false and have been made up for the purpose of booking various offences against them. According to them, the Tahsildar and the other officers under him tried to set ablaze a country boat, to which objections were raised by the petitioners and the people in the locality. This had annoyed the officers and a false story has been cooked up against the petitioners.

2. Going by the materials available in the CD, the claim of the petitioners cannot be readily accepted. Considering the nature of allegations against the petitioners, the manner in which the acts are alleged to have been committed and the gravity of the offences BA No.9508/12 2 alleged, it is felt that this is a fit case warranting the extra ordinary jurisdiction of this court under Section 438 Cr.PC. The application is accordingly allowed as follows :

1. The petitioners shall surrender before the Investigating Officer on or before 09.01.2013, who, after interrogation, shall produce them before the JFCM concerned.

2. On applications being filed by the petitioners before the JFCM concerned, they shall be released on bail on each of them executing a bond for Rs.10,000/- (Rupees Ten Thousand only) with two solvent sureties each for the like sum each to the satisfaction of the JFCM concerned.

3. The learned Magistrate shall ensure the identity of the sureties and also the veracity of the tax receipts produced by the sureties before granting bail to the petitioners.

4. The petitioners shall appear before the Investigating Officer as and when required by him, till final report is filed.

5. The petitioners shall not tamper or attempt to tamper with the evidence and influence or try to influence the witnesses.

6. If any of the conditions is violated, the bail granted shall stand cancelled and the JFCM concerned, on being satisfied BA No.9508/12 3 of the said fact, may take such steps as are available to him in law. P.Bhavadasan, Judge sta BA No.9508/12 4

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