

Hamza Vs. State of Kerala

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Court : Kerala

Decided On : Dec-31-2012

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Hamza

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. 9506 of 2012 () ----- CRIME NO.493/2012 OF BEDAKAM POLICE STATION, KASARAGOD DISTRICT ----- PETITIONER/ACCUSED: ----- HAMZA,S/O. MOTTAYIL KHADER, AGED 3 YEARS, MOTTAYIL HOUSE, MANJANADUKKAM, KOLATHUR VILLAGE & P.O., KASARAGOD DISTRICT. BY ADVS.SRI.I.V.PRAMOD SRI.MANSOOR.B.H. RESPONDENT/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.

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

Order The petitioner is the accused in Crime No.493/12 of Bedakam Police Station for having committed the offences punishable under Ss.341, 324 and 308 of IPC. The allegation is that on 8.12.2012 at about 9.30 pm, while the defacto complainant was returning home after dropping his son in the airport, the petitioner blocked his car, pulled him out of the car and caused injuries to him. The petitioner would say that the allegations are totally false and are cooked up for the purpose of the case. According to him, the defacto complainant is a money lender and he had lent money to the petitioner. The petitioner submits that the entire money was repaid, but the defacto complainant insisted for further amounts from him. This led to exchange of words between the petitioner and the complainant. It is also pointed out that there is a counter case with regard to the very same incident. The BA No.9506/12 2 petitioner submits that he is totally innocent and has been falsely implicated.

2. The learned Public Prosecutor opposed the application and pointed out that the claim of the petitioner that he is totally innocent, cannot be countenanced. It is also pointed out that the investigation is at an infant stage. The case diary and the wound certificate were made available for perusal.

3. On going through the materials available in the CD, it does not appear that the petitioner is as innocent as he claims to be. The veracity of the allegation does not arise for consideration as of now. Suffice is to say that the nature of allegations against the petitioner, the manner in which the acts are alleged to have been committed by him, the injuries suffered by the victim and the fact that the investigation is at an infant stage, preclude this court from exercising the extraordinary jurisdiction of this court under S.438 Cr.PC in favour of the petitioner. The application is accordingly dismissed. However, the petitioner will be at BA No.9506/12 3 liberty to surrender before the Investigating Officer on or before 09.01.13, who, after interrogation, shall produce him before the JFCM concerned. On an application being filed by the petitioner before the JFCM concerned for bail, the same shall be considered and appropriate orders shall be passed thereon by the JFCM concerned in accordance with law after hearing the APP, if possible, on

the same day of filing the application. P.Bhavadasan, Judge sta BA No.9506/12 4

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