

**Joy Vs. State of Kerala**

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**Court :** Kerala

**Decided On :** Feb-01-2013

**Judge :** Honourable Mr.Justice P.Bhavadasan

**Appellant :** Joy

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN FRIDAY, THE 1ST DAY OF FEBRUARY 2013 12TH MAGHA 193 Bail Appl..No. 250 of 2013 () ----- CRIME NO. 79/2012 OF EAST KALLADA POLICE STATION , KOLLAM ..... PETITIONER(S): ----- 1. JOY, AGED 3 YEARS, S/O. EDWARD,YESU VILASOM, PADAPPAKKARA P.O.,PERAYAM,MULAVANA, KOLLAM.

2. SHAJI, AGED 4 YEARS,S/O. EDWARD,AMAL NIVAS, -DO- 3. STEPHEN, AGED 6 YEARS,S/O. ANTONY,DHANYA BHAVAN, -DO- BY ADVS.SRI.V.JAYAPRADEEP SMT.V.V.RISANI RESPONDENT(S): ----- STATE OF KERALA, REP. BY THE S.I OF POLICE EAST KALLADA, THROUGH PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01-02-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss P.

BHAVADASAN, J.

----- B.A. No.250 of 2013 -----

- Dated this the 1st day of February, 2013

## ORDER

The petitioners are accused Nos.A4, A2 & A3 respectively in Crime No.79/2012 of East Kallada Police Station, who were alleged to have committed offences punishable under Sections 395, 506 and 353 IPC, along with the other accused persons.

2. The allegation against the accused persons are that on 29.01.2012, at 4.40 a.m., while the police officers were doing patrol duty, they happened to come across few persons trying to take away two country boats, which were seized by the police and kept near the shore containing sand. When the police officers tried to restrain them from doing so, they were threatened and the country boats were taken away. Later, it was found that the petitioners and other persons are involved in the incident and they were arrayed as accused. B.A. No.250 of 2013 -2- 3. The petitioners would say that they are totally innocent and are falsely implicated with ulterior motive. According to them, the incident happened almost one year ago and their names were included only on 19.12.2012. The inclusion of the petitioners as accused is without any basis. It is further submitted that there is no material to show that they took away the country boats. The petitioners therefore seek pre-arrest bail.

4. The learned Public Prosecutor very vehemently opposed the petition. It was pointed out by him that specific overt acts are attributed to A2, A3 & A6. A1 has been arrested and released on bail. There was delay in locating the accused persons. It is further pointed out that the investigation is going on and the country boats are actually recovered. Therefore, it is pointed out by the learned Public Prosecutor if as a matter of fact if the petitioners are granted anticipatory bail, that may adversely affect the investigation. After having heard the learned counsel for the B.A. No.250 of 2013 -3- petitioners, the learned Public Prosecutor and after having perused the records, it is felt that the claim of the petitioners that they are totally innocent and falsely implicated, cannot be readily accepted. It is true that

there is considerable delay in arraying the petitioners as accused. On going through the records, it is seen that overt acts are attributed against the petitioners at all. Considering the nature of allegations raised against the petitioners and the manner in which the acts committed, the gravity of the offence and also the fact that the investigation is progressing, it is felt that it may not be proper for this Court in exercising its extraordinary jurisdiction in favour of the petitioners. The petition is accordingly dismissed. P. BHAVADASAN JUDGE shg/

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