

Binu Vs. State of Kerala

Binu Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1013052

Court : Kerala

Decided On : Jan-28-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Binu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN MONDAY, THE 28TH DAY OF JANUARY 2013 8TH MAGHA 193 Bail Appl..No. 256 of 2013 ()
----- CRIME NO. 1417/2012 OF KALADY POLICE STATION, ERNAKULAM DISTRICT PETITIONER/ACCUSED : -----
BINU, AGED 3 YEARS, S/O.DEVASSY, ARAKKAL HOUSE,CHITTATU KARA VADAKKEKARA,PARAVUR TALUK, ERNAKULAM DISTRICT. BY ADV. SRI.B.JAYASURYA RESPONDENT/COMPLAINANT :
----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA,ERNAKULAM. BY PUBLIC PROSECUTOR SRI. V.S. SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28-01-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BP P. BHAVADASAN, J.

----- B.A. No. 256 of 2013 -----
Dated this the 28th day of January, 2013. ORDER Petitioner is the sole accused in

Crime No.1417 of 2012 for having committed offences punishable under Sections 417 and 376 I.P.C.

2. The case against the petitioner is that he, under the pretext of promising to marry the lady, had forced her to have sexual intercourse with him and later there was an abortion.

3. The petitioner would say that he is innocent and has been falsely implicated with ulterior motive. According to him, he has not committed any offence as alleged against him. Attention is drawn to the fact that even though the alleged incidents were said to have been taken place on 15.11.2012, 16.11.2012 and 17.11.2012, the complaint has been laid only on 30.12.2012. There is no reason given for the undue delay. B.A.256/2013

4. At any rate, it is pointed out that the petitioner has been in custody from 31.12.2012 and his continued custody is unnecessary. It is also pointed out that Annexure A2 produced by the petitioner would belie the claim of the victim that she had undergone an abortion and she had excessive bleeding etc.

5. Learned Public Prosecutor opposed the petition and pointed out that the investigation is going on.

6. After having heard learned counsel for the petitioner and the learned Public Prosecutor and after perusing the records, the claim of the petitioner that he is innocent may not be acceptable. The victim definitely speaks about the acts committed by the petitioner. The petitioner has been in custody from 31.12.2012 onwards. The victim in this case is aged 32 years. A good part of the investigation must have been completed by now. As there is no apprehension expressed by the investigating agency that B.A.256/2013. 3 if the petitioner is released on bail, he is likely to abscond, continued custody of the petitioner seems unnecessary. Therefore, this application is allowed on the following conditions: i) Petitioner shall be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two solvent sureties for the like sum each to the satisfaction of JFCM-I, Perumbavoor. ii) The learned Magistrate may ensure the identity of the sureties and also the veracity of the tax receipts that are sought to

be produced at the time of executing the bond. iii) Petitioner shall report before the Investigating Officer on every Wednesday between 9 a.m. and 10 a.m. till final report is laid. iv) Petitioner shall not leave State of Kerala without the permission of the Magistrate concerned. B.A.256/2013. 4 v) Petitioner shall surrender his passport before the Magistrate concerned, and if he is not having a valid passport, an affidavit to that effect shall be filed before the Magistrate concerned. vi) Petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witnesses. vii) If any of the conditions is violated, bail granted to the petitioner shall stand cancelled, and the JFCM concerned may take such steps as are available to him in law. P. BHAVADASAN, JUDGE sb.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com