

Dr. Radhakrishnan Vs. State of Kerala

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Court : Kerala

Decided On : Jul-12-2013

Judge : Honourable Mr.Justice S.S.Satheesachandran

Appellant : Dr. Radhakrishnan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE S.S.SATHEESACHANDRAN FRIDAY, THE 12TH DAY OF JULY 2013 21ST ASHADHA 193 Bail Appl..No. 5634 of 2012 () ----- (CRIME NO. 682/2012 OF GURUVAYOOR POLICE STATION , TRISSUR DT.) ----- PETITIONER: ----- DR. RADHAKRISHNAN, AGED 6 YEARS S/O.NARAYANA SANTHI, SIVAKRISHNA CHOOLPPURAM, IRINGAPURAM VILLAGE, THRISSUR DISTRICT (CHAIRMAN, SANTHIMADOM BUILDERS AND DEVELOPERS GURUVAYUR). BY ADVS.SRI.N.K.UNNIKRISHNAN SRI.S.RAJEEV RESPONDENTS: ----- 1. STATE OF KERALA REPRESENTED BY S.I. OF POLICE GURUVAYUR POLICE STATION, THROUGH PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM (CRIME 682 2012 OF GURUVAYUR POLICE STATION). ADDL.R2 IMPEADED ----- ADDL.R2. R.KUMAR, S/O.N.S.RAMASWAMY, SOUPARNIKA, ELAMANA JETTY ROAD, VATAKKE KOTTA, TRIPUNITHURA, ERNAKULAM DISTRICT 68230 , ADDL.R2 IMPEADED AS PER ORDER DATED 10 8.2012 IN CRL.MA.5398/12 IN

B.A.5634/12. R1 BY PUBLIC PROSECUTOR SMT.R.REMA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12-07-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: VK S.S.SATHEESACHANDRAN, J.

----- B.A.Nos.5634, 9152, 9153, 9154, 9155, 9156, 9157, 9160, 9162, 9175, 9854 & 9859 OF 201.() -----

Dated this the 12th day of July, 2013

ORDER

~~~~~ The above applications, twelve in number, all of them, have been filed seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure (for short 'the Code'). Five among the petitions, namely, B.A.Nos. 5634, 9154, 9157, 9160 and 9162 of 2012 are filed by a sole person, and he is the first petitioner in the other petitions which have been filed with some more persons. Since common case is canvassed in all the petitions to seek the discretionary relief of anticipatory bail specific advertence in relation to the petitions separately is not warranted. Suffice to state that against petitioner/petitioners in the respective petition imputing offences punishable under Sections 420 and 406 of Indian Penal Code and in some case with some other penal offences as well several crimes have been registered on complaints filed by persons, who are alleged to have been defrauded by them, and such crimes are now pending investigation. B.A.Nos.5634/2012 etc

2. Common case set up in the petitions is that first petitioner in the petitions filed with others, who is sole petitioner in some of the petitions, with his wife and son as members of a Trust, namely, Santhimadom builders and developers, carried out various building projects at different places in and around Thrissur. Two among the projects envisaged for construction of villas, after collection of consideration from those who joined the project gave rise to complaints from them before police alleging that they have been cheated and defrauded. Construction of villas in such projects, most of them are completed and allotments too have been made; but, with respect to some of the buildings amenities like electricity, water etc., cannot be provided in view of objections raised by local authorities and also

Archaeological department. When earnest efforts are being made to solve such problems, criminal proceedings have been launched to prosecute the builders and in some cases implicating the children of first petitioner though they have no role or connection with the execution of the projects. In cases of similar nature registered against the builders this Court has granted anticipatory bail to them, is the case of petitioner/petitioners to grant them the discretionary relief in the present petitions also. B.A.Nos.5634/2012 etc

3. In some petitions the de facto complainants in the crimes registered have entered appearance and opposed the applications contending that petitioner/petitioners are not entitled to the equitable relief of anticipatory bail. I find a detailed consideration of the merit of the case canvassed by petitioner/petitioners and also the objections raised opposing the petitions does not require to be analysed in view of what transpired during the proceedings of the petitions. On submissions made by counsel for petitioners to have an amicable settlement with the de facto complainants, this Court had passed orders referring the parties either to Lok Adalath or to the Mediation Centre. Failure reports on the steps taken for settlement by Lok Adalath or Mediation Centre were received in most cases. In one of the cases, B.A.No.5634 of 2012, after hearing the parties, this Court has directed petitioner to pay a sum of Rs.10 lakhs within the time fixed to the de facto complainant. In that petition and also some other petitions, petitioner/petitioners were enjoying orders of interim anticipatory bail directing his/their release in the event of arrest. The order of this Court to pay the sum directed was complied by handing over a cheque, which, later, on presentation was B.A.Nos.5634/2012 etc. 4 dishonoured. Whatever be the case canvassed by petitioner/petitioners for non-completion of villas, or villas completed and handed over, without providing the basic amenities required, to some persons, from whom substantial sums had been collected assuring them to provide villas with all amenities, it is seen from the Order dated 26.11.2012 in B.A.No.5634 of 2012 that pursuant to previous orders passed, cheque for a sum of Rs.8 lakhs was handed over to the de facto complainant in that case. When the cheque so handed over on presentation got dishonoured, it is a telltale circumstance that petitioner/petitioners has scant respect for Orders of this Court or in honouring the settlement entered with de facto complainant. Though the learned counsel appearing for petitioners

would submit that dishonour of the cheque was on account of some financial difficulties that cannot be accepted at all. The de facto complainants in the crimes have a strong grievance that there is soft pedalling of investigation and after filing of petitions and getting orders of interim anticipatory bail in some of them, investigation of the crimes are effectively blocked. First petitioner with his family is residing in a palatial building worth crores, whereas de facto complainants, some of B.A.Nos.5634/2012 etc. 5 them, not even provided with villas, and some others provided villas are in occupation of buildings without provided with basic amenities like electricity, water etc. and also under threat of forceful eviction from the villas since construction has been put up violating regulations applicable to notified heritage area, according to the counsel appearing for one of the de facto complainants in the crimes. Evidently, investigating agency looks towards the accused persons with a soft eye though the crimes registered, a number of them, would show of financial fraud of large scale in duping innocent persons of substantial sum of several crores. On the facts and circumstances involved in the cases, over and above the circumstance of dishonour of the cheque issued to a de facto complaint in one of the cases, I find petitioner/petitioners in these petitions are not entitled to the relief of anticipatory bail. Petitions are dismissed. Sd/- S.S.SATHEESACHANDRAN JUDGE ps/16/7 //True copy// PA to Judge

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