

Pavithradas Vs. State of Kerala

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Court : Kerala

Decided On : Sep-27-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Pavithradas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH FRIDAY, THE 27TH DAY OF SEPTEMBER 2013 5TH ASWINA, 1935 Bail Appl..No. 6314 of 2013 ----- CRIME NO. 611/2013 OF MALAMPUZHA POLICE STATION , PALAKKAD ... PETITIONER/ACCUSED:-: ----- PAVITHRADAS, AGED 38 YEARS, S/O.HARIDASAN, THOTTAPPURA, AKATHETHARA, PALAKKAD DISTRICT - 678 651. BY ADVS.SRI.T.B.HOOD SMT.M.ISHA RESPONDENT/STATE:-: ----- STATE OF KERALA, REPRESENTED BY THE SUB INSPECTOR OF POLICE, MALAMPUZHA POLICE STATION, PALAKKAD - 678 651, THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, KOCHI - 682 031. BY PUBLIC PROSECUTOR SRI.SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27-09-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss THOMAS.P.JOSEPH,J ----- B.A.No. 6314 OF 2013----- Dated this the 27th day of September,

2013

ORDER

The petitioner is the accused, in Crime No.611 of 2013 of Malampuzha Police Station for offences punishable under Sections 3, 17 and 18A of the Kerala Money Lenders Act, 1958 (for short 'Act'). Case is that the petitioner is engaged in money lending without license and has obtained signed, blank papers from the loanees.

2. Learned Counsel submitted that the allegations are not correct. Learned counsel also submitted that offence under Section 17 of the Act is bailable since it is punishable with imprisonment "up to 3 years" and fine of Rs.50,000/-. The learned Public Prosecutor has submitted that the offence under Section 17 of the Act is non-bailable.

3. The Act does not say whether the offences punishable thereunder are bailable or not. Hence reference has to be made to part 2 of Schedule 1 of the Code of B.A.No. 6314 OF20132 Criminal Procedure (for short 'Code'). The second item in part 2 of the Schedule 1 refers to offences punishable with "imprisonment for three years, and upwards but not more than seven years." The said expression must be understood as means, offences which are punishable with imprisonment for three years and more but not beyond 7 years. When Section 17 of the Act says that the offence stated thereunder is punishable with "imprisonment upto three years", it means the said offence is punishable with imprisonment for three years as well. The expression 'up to 3 years' includes 3 years as well. In short, the offence under Section 17 of the Act would come within the mischief of item 2 of part 2 of Schedule 1 of the Code and hence that offence is not bailable.

4. Learned Public Prosecutor has submitted that the petitioner is involved in certain other cases also, one of which is for the offence under Section 307 of IPC.

5. Having regard to the fact situation in the case, I am B.A.No. 6314 OF20133 inclined to grant time to the petitioner to surrender before the court concerned and seek bail but, subject to conditions. Accordingly this petition is disposed as under: (1) Petitioner is granted three weeks time to appear in the court concerned and seek regular bail. (2) If during the said period of three weeks the petitioner is

arrested in Crime No.611 of 2013 of Malampuzha Police station, he shall be released during the said period of three weeks on his executing bond for Rs.20,000/-(Rupees Twenty Thousand Only) with two sureties for the like sum each before the arresting officer and subject to the following conditions:- (a) That, the petitioner shall not get involved in any similar offence during the said period of three weeks. (b) That the petitioner shall report to the officer investigating the case on all B.A.No. 6314 OF20134 Mondays and Saturdays between 10 am and 12 pm and on other days during the said period of three weeks as directed by the said officer for interrogation. (c). In case of violation of any of the above conditions, the time granted hereby is liable to be cancelled on a motion made before the Jurisdictional Magistrate as held in P.K. Shaji v State of Kerala (AIR 2006 SC100. THOMAS.P.JOSEPH, JUDGE. SKV

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