

Premesh Vs. State of Kerala

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Court : Kerala

Decided On : Oct-08-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Premesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN TUESDAY, THE 8TH DAY OF OCTOBER 2013 16TH ASWINA, 1935 Bail Appl..No. 6642 of 2013 ----- CRIME NO.3093/2013 OF KARUNAGAPALLY POLICE STATION,KOLLAM DISTRICT ... PETITIONERS:ACCUSED NO.3 & 4 ----- 1. PREMESH, AGED 30 YEARS, S/O.PRABHARAJAN, THEKKEMANNIL, PANDARATHURUTHU, CHERIAZHICKAL PO, KARUNAGAPALLY.

2. LENIN, AGED 20 YEARS, S/O.VISWALAL, VISHVA VILASAM, THEKKEMANNIL, PANDARATHURUTHU, CHERIAZHICKAL PO., KARUNAGAPALLY. BY ADV. SRI.BENNY M.JOHN RESPONDENT: ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA , ERNAKULAM. BY PUBLIC PROSECUTOR SMT. P.MAYA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08-10-2013, THE COURT ON THE SAME DAY PASSED

THE FOLLOWING: Kss P.BHAVADASAN, J.

----- Bail Application No.6642
OF2013----- Dated this the 8th day of October, 2013.

ORDER

Even though there are two petitioners, when the Bail Application was taken up for hearing, it was pointed out by the learned counsel for the petitioners that the 1st petitioner, who is the 3rd accused, has already been arrested and the petition has become infructuous as far as he is concerned. The said submission is noted.

2. The allegation against the petitioners and others is that on the date of the incident, at about 7.40 p.m, while the petitioners were going along the road which is situated near the house of the de facto complainant uttering obscene words, the de facto complainant questioned their activities and that seems to have infuriated the petitioners and they trespassed into the house of the de facto complainant and beat her up. When her husband, son and daughter-in-law, who was two months pregnant, came to her rescue, they too were attacked. B.A. No.6642/2013 2 3. The 2nd petitioner would say that he is totally innocent and has been falsely implicated in the matter. According to him, he along with other accused persons had gone for a function during Onam celebration and there was a scuffle which had been given a distorted version. According to the 2nd petitioner, the incident as spoken to by the de facto complainant is totally unbelievable and it is quite unnatural also. It is further pointed out that recoveries have been made and the 1st and the 2nd accused have already been released on bail. The 2nd petitioner therefore seeks pre arrest bail.

4. Learned Public Prosecutor opposed the petition and pointed out that the investigation is at an infant stage. It is also pointed out that the act of the 2nd petitioner may not be viewed lightly in the light of the manner in which the incident had taken place.

5. After having heard the learned counsel for the petitioners, the learned Public Prosecutor and also after having perused the records, the claim of the 2nd

petitioner that he is totally innocent and has been falsely implicated cannot be B.A. No.6642/2013 3 countenanced. He is one of the persons who are alleged to have trespassed into the house of the de facto complainant and attacked the victims. It would appear that the accused persons have attacked the victims in furtherance of their common intention. The statements of the doctors seen in the records show that the respective injured would have been assaulted by the accused persons.

6. Considering the nature of the allegations, the manner in which the offences were committed, the injury caused and also the fact that the investigation is at an infant stage, this Court is precluded from exercising its extra ordinary jurisdiction in favour of the 2nd petitioner. Therefore, this application is only to be dismissed. The application is dismissed as far as the 2nd petitioner is concerned. Sd/- P.BHAVADASAN JUDGE smp

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