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Jayakumar Vs. State of Kerala

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Court : Kerala

Decided On : Oct-07-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Jayakumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN MONDAY,THE7H DAY OF OCTOBER201315TH ASWINA, 1935 Bail Appl..No. 6387 of 2013 () ---------- CRIME NO. 390/2013 OF VIZHINJAM POLICE STATION , THIRUVANANTHAPURAM DISTRICT ---------- PETITIONER/1ST ACCUSED : ---------- JAYAKUMAR, S/O.ACHUTHAN,AGED51YEARS, KADAYIL VEEDU, NEDUMAM, THIRUVALLAM, THIRUVANANTHAPURAM DISTRICT. BY ADV. SRI.LATHEESH SEBASTIAN RESPONDENTS/STATE & COMPLAINANT : ---------- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA , ERNAKULAM. PIN-682 031.

2. SUB INSPECTOR OF POLICE, VIZHINJAM POLICE STATION -695 521. R1 & R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON0710-2013, THE

COURT ON THE SAME DAY PASSED THE FOLLOWING: sts P.BHAVADASAN, J.

- B.A. No. 6387 of 2013 - Dated this the 07th day of October, 2013

ORDER

The petitioner is the first accused in Crime No.390 of 2013 of Vizhinjam Police Station who is alleged to have committed the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

2. The allegation against the petitioner is that he along with the second accused made the victim to believe that they would procure a job for her and received a sum of 8.5 lakhs. Subsequently, they did not procure any job for the victim and when the money was sought back, promissory note was issued by the petitioner herein. Further allegation is that at a later point of time, he went to the house of the victim under the guise of seeking photostat copy taken out of the original promissory note, procured the promissory note and that was not returned. That resulted in laying of the private complaint which is referred for B.A. No.6387/2013 -2- investigation under Section 156(3) of Cr.P.C.

3. The petitioner would say that he is innocent and has been falsely implicated with ulterior motive. It is pointed out that most of the allegations are against the second accused and he had no role to play in the incident. He therefore seeks pre-arrest bail.

4. The learned Public Prosecutor opposed the petition and pointed out that petitioner is the privy to the transaction and he, who received the initial amount had counted the same and entrusted to the second accused. Moreover, he had taken the promissory note under the guise of taking a photostat copy. It is also pointed out that the investigation is at an infant stage.

5. After having heard the learned counsel for the petitioner and the learned Public Prosecutor and having perused the records, the claim of the petitioner that he is totally innocent cannot be accepted as of now. May be there is some delay in

lodging the private complaint. But that is B.A. No.6387/2013 -3- understandable in the circumstances under which the case as disclosed in the complaint. A copy of the same is produced along this petition. It could not be said that the petitioner is all that innocent. Any how, a deeper probe into the veracity of the allegations is not warranted at this point of time.

6. Suffice to say that considering the nature of allegations against the petitioner, the manner in which the offence was committed, the loss caused to the victim and also the fact that the investigation is at an infant stage preclude this Court from exercising its extraordinary jurisdiction in favour of the petitioner. This petition is accordingly dismissed. However, if so advised, the petitioner may surrender before the Investigating Officer on or before 17.10.2013, who after interrogation, shall produce him before the JFCM Court concerned. If the petitioner moves an application for bail before the said court, the learned Magistrate shall B.A. No.6387/2013 -4- consider and pass appropriate orders thereon in accordance with law, preferably on the date of surrender itself. Sd/- P.BHAVADASAN JUDGE ds //True Copy// P.A. To Judge

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