

Muthu Kumar Vs. the State of Kerala

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Court : Kerala

Decided On : Oct-25-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Muthu Kumar

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN FRIDAY, THE 25TH DAY OF OCTOBER 2013 3RD KARTHIKA, 1935 Bail Appl..No. 7067 of 2013 ()
----- CRIME NO. 1438/2013 OF KILIKOLLOOR POLICE STATION, KOLLAM DISTRICT. PETITIONER/ACCUSED:
----- MUTHU KUMAR, S/O.NADARAJAN, AGED 23 YEARS, PERUMAL KOVIL, SOUTH STREET, KEELECHAVIL, MELECHAVIL, THIRUNELVELI, TAMIL NADU. BY ADVS.DR.V.N.SANKARJEE, SRI.V.N.MADHUSUDANAN, SMT.R.UDAYA JYOTHI, SMT.K.S.SANDHYA, SMT.K.P.NEETHA. RESPONDENTS/COMPLAINANTS:
----- 1. THE STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE INSPECTOR OF POLICE, ERAVIPURAM, KOLLAM DISTRICT-691 001.

3. THE SUB INSPECTOR OF POLICE, KILIKOLLOOR POLICE STATION, KOLLAM DISTRICT-691 004. BY PUBLIC PROSECUTOR MR.DHANESH MATHEW MANJOORAN. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25.10-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. P.BHAVADASAN, J.

----- B.A. No. 7067 of 2013 -----
----- Dated this the 25th day of October, 2013

ORDER

The petitioner is the sole accused in Crime No.1438 of 2013 of Kilikolloor Police Station who is alleged to have committed the offences punishable under Sections 366 and 376 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. The allegation against the petitioner is that on the date of incident, he managed to entice the victim away from the custody of her parents and had forced her to sexual intercourse.

3. The petitioner would say that he is innocent and has been falsely implicated. According to him, the victim was in deep love with him and she had left on her own volition. Even assuming that there was any physical contact, it was with the consent of the victim. At any rate, the petitioner points out that he has been in custody from B.A. No. 7067/2013 -2- 12.09.2013 onwards and his continued custody is unnecessary.

4. The learned Public Prosecutor opposed the petition and pointed out that the offences are of a very serious nature and the investigation is going on.

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 innocent may not be capable of acceptance. There seems to be some substance in the submissions made by the learned counsel for the petitioner that the victim might have gone voluntarily with the petitioner. It is seen from the records that the victim and the petitioner were in deep love. However, the fact remains that the

victim is aged only 16 years at the relevant time. A deeper probe into the veracity of the allegations is not warranted at this point of time. A good part of the investigation must have been completed by now. Since no apprehension is expressed by the B.A. No. 7067/2013 -3- investigating agency that if the petitioner is released on bail, he is likely to abscond, his continued custody appears to be unnecessary. This petition is allowed as follows: i) The petitioner shall be released on bail on his executing a bond for a sum of ` 25,000/- (Rupees Twenty Five thousand only) with two solvent sureties for the like sum each to the satisfaction of the Court concerned. ii) The court concerned shall ensure the identity of the sureties and also the veracity of the tax receipts before granting bail. iii) The petitioner shall appear before the Investigating Officer on every Wednesday between 9 am and 10 am until further orders. iv) The petitioner shall produce his original passport before the court concerned. If he is not having any valid passport, he should file an affidavit regarding B.A. No. 7067/2013 -4- the same before the court concerned. v) The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witness. vi) The petitioner shall not leave the State of Kerala without prior permission of the court concerned. vii) If any of the conditions is violated, bail granted to the petitioner shall stand cancelled and the court concerned may take such steps as are available to it in accordance with law. P.BHAVADASAN JUDGE ds

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