

indira Vs. State of Kerala

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Court : Kerala

Decided On : Oct-25-2013

Judge : Hon'Ble the Chief Justice Dr. Manjula Chellur

Appellant : indira

Respondent : 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. 7120 of 2013
----- CRIME NO. 827/2013 OF KODUMON POLICE STATION ,
PATHANAMTHITTA .. PETITIONER:1ST ACCUSED:
----- INDIRA, W/O.SURESH, AGED 48 YEARS,
PLAVILA VEETIL, KONNEPPADY, EDATHITTA MURIYIL KODUMON VILLAGE,
PATHANAMTHITTA. BY ADVS.SRI.T.K.BIJU (MANJINIKARA) SMT.ANNIE
M.ABRAHAM RESPONDENT(S)/COMPLAINANT & STATE:
----- 1. STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE, KODUMON POLICE
STATION, KODUMON, PATHANAMTHITTA (FIR NO.827/2013) (REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM).

2. OMANA, AGED 60 W/O.SOMARAJAN, PLAVILAYIL MELETHIL,
KONNEPPADY, EDATHITTA MURIYIL, KODUMON VILLAGE,

PATHANAMTHITTA689648. R1 BY PUBLIC PROSECUTOR SMT. P. MAYA
THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25-10-2013,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss
P.BHAVADASAN, J.

----- B.A. No. 7120 of 2013 -----
----- Dated this the 25th day of October, 2013

ORDER

The petitioner is the first accused in Crime No. 827 of 2013 of Kodumon Police Station who is alleged to have committed the offences punishable under Sections 324 and 326 read with Section 34 of Indian Penal Code.

2. The allegation against the petitioner is that she on the date of incident, had picked up a quarrel with the defacto complainant and assaulted her causing a fracture to the defacto complainant.

3. The petitioner would say that the allegations are not correct and the facts are entirely different. Drawing attention to the First Information Statement which resulted in the registration of the crime produced as Annexure A1, it is pointed out that in fact, it was the defacto complainant who had picked up a quarrel with the petitioner herein and the first attack was made by the defacto complainant B.A. No.7120/2013 -2- herself. It was further pointed out that on the complaint made by the petitioner herein, a crime has been registered against the defacto complainant and it is prior in point of time and the complaint which resulted in the registration of the crime can be treated only as a retaliatory measure. It is also pointed out that the petitioner, as a result of the attack by the defacto complainant, has suffered fracture and was hospitalized also. Accordingly it is prayed that she may be granted pre-arrest bail.

4. The learned Public Prosecutor only 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 and more so Annexure A1 produced

along the petition, there seems to be considerable force in the submissions made by the learned counsel appearing for the petitioner. Even going by the statement given by the defacto complainant in this case, it was she who had picked B.A. No.7120/2013 -3- up quarrel with the petitioner herein and it was she who made the first attack. It would appear that the petitioner herein acted in defence. Whatever that be, taken note of the various facts and circumstances as disclosed from the records produced before this Court, it is felt that this is a fit case where extraordinary jurisdiction of this Court needs to be exercised in favour of the petitioner. The petition is allowed as follows:

1. The petitioner shall surrender before the Investigating Officer on or before 06.11.2013, who, after interrogation, shall produce him before the JFCM court concerned, which court, on an application for bail being moved by the petitioner shall release him on bail on his executing a bond for a sum of `15,000/- (Rupees Fifteen Thousand only) with two solvent sureties for the like sum each to the satisfaction of the said court. B.A. No.7120/2013 -4- 2) The court shall ensure the identity of the sureties and the veracity of the tax receipts, before granting bail. 3) The petitioner shall appear before the Investigating Officer on every Tuesday between 9.00 am and 10.00 am until further orders. 4) The petitioner shall not tamper or attempt to tamper with the evidence and influence or try to influence the witnesses. 5) 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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