

Rajeevan Nair Vs. State of Kerala

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Court : Kerala

Decided On : Oct-31-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Rajeevan Nair

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH THURSDAY, THE 31ST DAY OF OCTOBER 2013 9TH KARTHIKA, 1935 BAIL APPL..NO. 1342 OF 2013()
----- CRIME NO. 103/2013 OF KOYILANDY POLICE STATION , KOZHIKODE PETITIONERS/ACCUSED: -----

1. RAJEEVAN NAIR AGED 42 YEARS S/O.KUNHUNNI NAIR, NADUVILE PULLATTU HOUSE, THUVVAKODE CHEMANCHERY, KOYILANDY TALUK.

2. AJITHA AGED 49 YEARS W/O.BALAKRISHNAN, KOMMANA VAYALIL HOUSE MUCHUKUNNU AMSOM, MOODADI DESOM, KOYILANDY TALUK.

3. SABITHA AGED 40 YEARS W/O.RAMACHANDRAN, NANGELATH HOUSE, MOODADI AMSOM DESOM KOYILANDY TALUK. BY ADVS.SRI.P.R.SREEJITH SRI.M.PROMODH KUMAR RESPONDENT/COMPLAINANT:

----- STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM-682031. BY

PUBLIC PROSECUTOR SHRI ROY THOMAS THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31.10.2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: THOMAS P. JOSEPH, J.

===== B.A. No.1342 of 2013
===== Dated this the 31st day of
October, 2013

ORDER

Petitioners are accused in Crime No.103 of 2013 of the Koyilandy Police Station for the offences punishable under Sections 4(b) and 5 of the Explosive Substances Act, apprehend arrest and filed this petition under Sec.438 of the Code of Criminal Procedure as early as on 15.02.2013.

2. Learned counsel submits that the allegation is that the 1st petitioner is running a shop for sale of materials used for making crackers, on 13.01.2013 the police raided the shop and seized Aluminium Nitrate, Pottassium, Nitrate, Charcoal Powder and Strontium Nitrate. It is submitted that the 1st petitioner has obtained licence No.45/12 for the period 2012-13 for sale of Aluminium Powder, Aluminium chips, Barium Nitrate and Sulphur Powder (Annexure A3 is also pressed into service). It is further submitted that the Deputy Chief Controller of Explosives, by his letter dated 14.10.2013 has clarified that Pottassium Nitrate, Charcoal Powder and Strontium Nitrate are not explosives by itself and hence do not attract provisions of Explosives Rules, 2008 as B.A. No.1342 of 2013 :-

2. :- regards its possession, storage, use and transportation.

3. Learned Public Prosecutor submits that the petitioners have committed the offence as alleged.

4. The 1st petitioner is the owner of the shop and petitioners 2 and 3 are his staff. I need not go into the question whether the petitioners have committed the offence as alleged. In case final report is not filed, it is for the Investigating Officer to look into the allegations against the petitioners in the light of the licence the 1st petitioner has obtained and letter dated 14.10.2013 above stated. Petitioners can

give a copy of the said letter to the Officer investigating the case. In case final report is filed, it is for the court concerned to find whether any offence is committed.

5. Having regard to the circumstances stated above and particularly, the letter dated 14.10.2013, I am inclined to grant relief to the petitioners but subject to conditions. Resultantly, the application is disposed of as under: (i) Petitioners shall surrender before the Officer investigating Crime No.103 of 2013 of the Koyilandy Police B.A. No.1342 of 2013 -:

3. :- Station on 07.11.2013 at 10.00 a.m. for interrogation. (ii) In case interrogation is not completed on that day, it is open to the Officer concerned to direct presence of the petitioners on other day/days and time as may be specified by him which the petitioners shall comply. (iii) Petitioners shall produce copy of the letter dated 14.10.2013 referred above before the Officer investigating the case. (iv) After questioning the petitioners with the relevant materials if the petitioners are arrested, they shall be produced before the jurisdictional magistrate the same day. (v) On such production it is open to the petitioners to move application for bail before the jurisdictional magistrate that day. (vi) Petitioners shall give intimation about their intend to move the application for bail to the Assistant Public Prosecutor at least three working days in advance so that, he will be equipped with facts of the case. (vii) If custodial interrogation of the petitioners is required, it is open to the Officer investigating the case to file application for the said purpose. B.A. No.1342 of 2013 -:

4. :- (viii) The learned magistrate shall consider the application (s) on its merit as per the law and pass orders as early as possible. THOMAS P.JOSEPH, JUDGE.
vsv

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