

ShehIn Vs. State of Kerala

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Court : Kerala

Decided On : Oct-29-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Shehin

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN TUESDAY, THE 29TH DAY OF OCTOBER 2013 7TH KARTHIKA, 1935 Bail Appl..No. 6615 of 2013 ()
----- CRIME NO. 724/2013 OF MANGALAPURAM POLICE STATION , THIRUVANANDAPURAM PETITIONER/2ND ACCUSED: ----- SHEHIN, AGED 19 YEARS S/O. RAFEEK, MANAKKATTUVILAKKATHVEEDU, VADAKKUMBHAGOM KAZHAKKOOTAM.P.O. BY ADVS.SRI.C.A.CHACKO SMT.C.M.CHARISMA SMT.MEGHA K.XAVIER RESPONDENT:COMPLAINANT(S)/
----- STATE OF KERALA REPRESENTING SUB INSPECTOR OF POLICE MAGALAPURAM POLICE STATION, THIRUVANANTHAPURAM REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29-10-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: tss P.BHAVADASAN, J.

----- Dated this the 29th day of October, 2013

ORDER

The petitioner is alleged to be the second accused in Crime No. 724 of 2013 of Mangalapuram Police Station who is alleged to have committed the offence punishable under Section 379 read with Section 34 of IPC.

2. The allegation against the petitioner and the co- accused is that on the date of incident when the defacto complainant wanted to go to her matrimonial house, she hired the autorikshaw driven by the first accused. On the way to pick up the defacto complainant, the first accused had the company of the second accused also. On reaching the house of defacto complainant since the autorikshaw could not be taken into the house, it was parked slightly away from the house. The allegation is that the luggage which the defacto complainant had was carried to the autorikshaw by the first and the second accused. One of the B.A. No. 6615/2013 - 2- luggage, a big shopper bag is alleged to have contained gold ornaments. The defacto complainant got into the autorikshaw and dismounted at her matrimonial house. She was followed by her husband on a motor bike. Later in the night, she happened to find that the gold ornaments are missing. She laid the complaint five days thereafter.

3. The petitioner would say that he is innocent and has been falsely implicated with ulterior motive. He has not committed any act as alleged. It is in fact found that the name of the second accused shown in the complaint is Shamir whereas the name of the petitioner is Shehin. However, he is being hunted on the premises that he is the second accused.

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, there is some justification in the B.A. No. 6615/2013 -3- grievance voiced by the petitioner. The story put forward by the

defacto complainant does not appear to be very convincing. There is a delay of five days in lodging the complaint which is not satisfactorily explained. Taking the totality of the facts and circumstances, 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. Petitioner shall surrender before the Investigating Officer on or before 05.11.2013, 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 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 said court. 2) The court concerned shall ensure the identity of the sureties and the veracity of the tax receipts, before granting bail. B.A. No. 6615/2013 -4- 3) Petitioner shall appear before the Investigating Officer on every Tuesday between 9.00 am and 10.00 am until further orders. 4) Petitioner shall produce his original passport before the court concerned. If he is not having any valid passport, he should file an affidavit regarding the same before the court concerned. 5) Petitioner shall not tamper or attempt to tamper with the evidence and influence or try to influence the witnesses. 6) Petitioner shall not leave the State of Kerala without prior permission of the court concerned. 7) 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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