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Shafi Vs. State of Kerala

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Court : Kerala

Decided On : Oct-22-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Shafi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN TUESDAY,THE22D DAY OF OCTOBER201330TH ASWINA, 1935 Bail Appl..No. 6955 of 2013 () ---------- CRIME NO. 996/2013 OF KILIMANOOR POLICE STATION , THIRUVANANTHAPURAM PETITIONER/ACCUSED: ---------- SHAFI AGED43YEARS S/O.ALIYARUKUNJU, ALENSHAW HOUSE, KUTTIPURAM VAMANAPURAM, THIRUVANANTHAPURAM DISTRICT BY ADV. SRI.LIJU. M.P RESPONDENT/COMPLAINANT: ---------- STATE OF KERALA REPRESENTED BY SUB INSPECTOR OF POLICE KILIMANOOR POLICE STATION THIRUVANANTHAPURAM DISTRICT THROUGH THE PUBLIC PROSECUTOR HIGH COURT OF KERAL, ERNAKULAM682031 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON2210-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: SKV P.BHAVADASAN, J.

---------- Bail Application No.6955 OF2013---------- Dated this the 22nd day of October, 2013.

ORDER

The petitioner is the sole accused in Crime No.996/2013 of Kilimanoor Police Station who is alleged to have committed the offences punishable under Sections 452, 354, 341 and 323 IPC. The allegation against the petitioner is that on the date of the incident, he trespassed into the house of the victim and assaulted her.

2. The petitioner would say that he is innocent and the entire allegations are false. He would say that he and the de facto complainant purchased a property in their joint names and the de facto complainant insisted that the petitioner assigns his share to the daughter of the de facto complainant which he did but the sale consideration was not paid to the petitioner in spite of repeated demands. The petitioner would also say that the daughter of the de facto complainant also insisted her to pay the sale consideration to the petitioner. Ultimately, it so happened B.A.No.6955/2013 2 that the daughter left the de facto complainant. Infuriated by all these acts, a false complaint has been laid against the petitioner.

3. Learned Public Prosecutor opposed the petition. He only pointed out that the investigation is at an infant stage.

4. After having heard the learned counsel for the petitioner, the learned Public Prosecutor and also after having perused the records, there seems to be some force in the claims made by the petitioner. At any rate, it is difficult to understand how the offence under Section 354 IPC can be attracted though it may be too earlier to pronounce a final opinion in that regard. Considering the nature of the allegations against the petitioner and after having given anxious consideration to various aspects, it is felt that this is a fit case where extra ordinary jurisdiction of this Court needs to be exercised in favour of the petitioner. Therefore, the application is allowed on the following conditions: i) The petitioner shall surrender before the Investigating Officer on or before 29.10.2013 who, after interrogation, shall produce him before the Court concerned, which court, on application for bail being B.A.No.6955/2013 3 moved by the petitioner, shall release him on bail on

his executing bond for a sum of Rs.15,000/- (Rupees Fifteen 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 produced by them. iii) The petitioner shall report before the Investigating Officer on every Tuesday between 9 a.m and 10 a.m until further orders. iv) The petitioner shall not tamper or attempt to tamper with the evidence or influence or try to influence the witness. v) If any of the condition is violated, the bail granted shall stand cancelled and the Court concerned, on being satisfied of the said fact, may take such steps as are available to it in law. Sd/- P.BHAVADASAN JUDGE smp // True Copy // P.A. to Judge.

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