

Manoj Vs. State of Kerala

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Court : Kerala

Decided On : Oct-31-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Manoj

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. 5456 of 2013 ()
----- CRIME NO. 767/2013 OF TOWN NORTH POLICE STATION, ERNAKULAM DISTRICT -----
PETITIONERS/PETITIONERS/ACCUSED :
----- MANOJ, AGED 46 YEARS, S/O. ANIRUDHAN PROPRIETOR, GLOBAL EDUCATIONAL CONSULTANTS, 2ND FLOOR PENTA TOWER, OPP. KALOOR BUS STAND, COCHIN - 682 017. BY ADVS.SRI.S.RAJEEV SRI.K.K.DHEERENDRA KRISHNAN
RESPONDENTS/RESPONDENTS/STATE :
----- 1. STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM - 682 031 (CRIME NO.767/2013 OF TOWN NORTH POLICE STATION ERNAKULAM DISTRICT) 2. STATION HOUSE OFFICER, TOWN NORTH POLICE STATION ERNAKULAM DISTRICT - 682 018 (CRIME NO.767/2013 OF TOWN NORTH

POLICE STATION ERNAKULAM DISTRICT) R1 & R2 BY PUBLIC PROSECUTOR SRI. ROY THOMAS THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 3110-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn THOMAS P. JOSEPH, J.

===== Bail Application No.5456 of 2013
===== Dated this the 31st day of October, 2013

ORDER

Petitioner is accused in Crime No. 767 of 2013 of the Ernakulam Town North police station for the offences punishable under Secs.406 and 420 of the Penal Code, apprehends arrest and has filed this application. According to the de facto complainant, petitioner collected money on a promise to arrange admission for study in an Australian University but the course was not approved in India.

2. Learned counsel submits that the de facto complainant remitted Rs.5,000/- as registration fee. The petitioner was to secure admission, arrange amenities and present documents for Visa for the de facto complainant. Annexure - 1 is produced to show that the petitioner secured admission in Carrick Institute of Education for diploma in Hospitality Management. The de facto complainant paid Rs. 2 lakhs to the said university as B.A No.5456 of 2013 2 revealed by Annexure - 2. Thereon, visa was issued to the de facto complainant (Annexure - 3) in the year, 2009. It is contended that the de facto complainant asked the petitioner to change the course to Community Welfare. Petitioner got admission for that course as well which started in April, 2009. But in 2010m the de facto complainant told the petitioner that he could not join that course and demanded the fee paid to the university which the petitioner was not able to oblige. Petitioner informed claim of the de facto complainant to the university who, by Annexure - 4 informed that request for refund cannot be accepted as the default was on the part of the de facto complainant.

3. Learned Public Prosecutor has submitted that the de facto complainant was made to believe that the course offered by the Australian University was recognized in India. It is also submitted that according to the de facto complainant,

though he asked for hospitality management he was not provided that course and later a course in community welfare was offered. B.A No.5456 of 2013 3 4. To counter that contention, additional documents are produced by the petitioner along with CrI.M.A. No.8654 of 2013. Annexure - 4 is the application preferred by the petitioner for cancellation of the course. In column - 10 for educational plans, the country in which the course was requested is shown as 'Australia' and the course is diploma in hospitality.

4. Learned counsel submits that many of the courses conducted by the foreign universities are not recognized in India and that the candidates who complete such courses are to appear for separate examination in India.

5. Annexure - 10 issued from the Carrick University states if there is default after the agreed start date of the course, no refund will be issued to the student.

6. In the above circumstances, I am inclined to grant relief to the petitioner but without making or indicating any opinion as to the acceptance of the contention the petitioner has raised in this application. Resultantly, this application is allowed as under:- 1) It is directed that the petitioner shall surrender before the officer investigating Crime No. 767 of B.A No.5456 of 2013 4 2013 of the Ernakulam Town North police station on 07.11.2013 at 10:00 a.m. for interrogation. 2) It is open to the investigating officer to direct presence of the petitioner before him on other date/dates and time which the petitioner shall comply. 3) After interrogation, in case arrest of the petitioner is recorded in Crime No. 767 of 2013 of the Ernakulam Town North police station, he shall be produced before the jurisdictional magistrate the same day. 4) Learned magistrate shall release the petitioner(if not required to be detained otherwise) on his executing bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties for the like sum each to the satisfaction of the learned magistrate subject to the following conditions:- a) Petitioner shall report to the Officer investigating Crime No. 767 of 2013 of the Ernakulam Town North police station on every alternate Saturday between 10:00 a.m. and 12:00 p.m. for a period of two months or until final report is filed whichever is earlier. B.A No.5456 of 2013 5 b) Petitioner shall report to the Investigating Officer as and when required for interrogation. c) Petitioner shall not

interfere with the investigation, influence/intimidate the witnesses. c) It is made clear that in case any of the above conditions is violated, it is open to the Investigating Officer to seek cancellation of the bail granted hereby by moving application before the learned Magistrate as held in P.K. Shaji V. State of Kerala (AIR2006 Supreme Court 100). THOMAS P.JOSEPH, JUDGE smv

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