

Sunil Lawrence Vs. State of Kerala

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Court : Kerala

Decided On : Nov-05-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Sunil Lawrence

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH TUESDAY, THE 5TH DAY OF NOVEMBER 2013 14TH KARTHIKA, 1935 Bail Appl..No. 7295 of 2013 ()
----- CRIME NO. 3620/2013 OF ALUVA POLICE STATION , ERNAKULAM ----- PETITIONER: ----- SUNIL LAWRENCE, AGED 44 YEARS, S/O LATE LAWRENCE, MALIYEKKAL HOUSE, U.C. COLLEGE P.O. ALUVA. BY ADV. SRI.S.SREEKUMAR (SR.)
RESPONDENTS: ----- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031.

2. THE STATION HOUSE OFFICER ALUVA EAST POLICE STATION-683101. BY PUBLIC PROSECUTOR SMT.LELIZA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11-2013, ALONG WITH BA.NO.7306/2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ THOMAS P. JOSEPH, J.

ORDER

Petitioner, common in both the applications apprehends arrest in Crime Nos.3249 of 2013 and 3260 of 2013, respectively of the Aluva East Police station for the offence punishable under Sec.17 of the Money Lenders Act ('the Act', for short) and has filed these applications. In crime No.3249 of 2013, the offence under Sec. 420 of IPC is also incorporated while in Crime No.3260 of 2013 apart from the said offence, the offence under Sec.468 of IPC is also incorporated.

2. Learned Public Prosecutor, while opposing the applications has contended that the petitioner is engaged in financing business without obtaining a licence. It is also submitted that in Crime No.3620 of 2013, the petitioner is alleged to have forged documents and cheated the defacto complainant. It is alleged that the defacto complainant had borrowed Rs.1,00,000/- (Rupees one lakh only) from the petitioner and handed over signed blank papers but, forging documents the Bail Appl. Nos.7295 & 7306 of 2013 2 petitioner has claimed Rs.20,00,000/- (Rupees twenty lakhs only) from the defacto complainant. In Crime No.3249 of 2013, apart from indulging in money lending business without licence, the further allegation is that the defacto complainant had availed loan of Rs.4,00,000/- (Rupees four lakhs only) and the petitioner obtained various documents including signed blank cheques and signed stamp papers as security. The defacto complainant had repaid the entire amount but the petitioner is insisting for payment of huge amount.

3. Learned senior advocate for the petitioner has contended that on an allegation that the petitioner is engaged in conducting chitty without registration, the Police registered Crime Nos.2916 and 2928 of 2013, a search was made in the house of the petitioner but nothing incriminating could be recovered. The proceedings in the said crime cases are stayed by this Court in Crl. M.C. Nos.3861 and 3862 of 2013 filed to quash the said proceedings on the strength of Annexures 3 and 4 produced in B.A. No.7295 of 2013 which Bail Appl. Nos.7295 & 7306 of 2013 3 according to the learned senior advocate would show that the petitioner is conducting chitty business with registration and engaged in finance business with

licence under the Act. My attention is also drawn to annexures 2 and 3 produced in B.A. No.7306 of 2013 to contend that the petitioner has obtained licence under the Act. A further submission is that the defacto complainant in Crime No.2928 of 2013 has filed affidavit that he happened to prefer a complaint against the petitioner under intimidation from the Police.

4. It is seen from the common order passed by the learned Additional Sessions Judge, Ernakulam while rejecting the applications for anticipatory bail moved by the petitioner that the document produced for proving that the petitioner has obtained the licence for money lending business concerned 'Atlas Finance'. Learned Senior advocate invites my attention to Annexure 5, copy of Partnership Deed which states that name of partner ship business is Atlas Finance.

5. Having regard to the above, I am inclined to Bail Appl. Nos.7295 & 7306 of 2013 4 think that interrogation of the petitioner is required. Whether the petitioner is to be granted regular bail or not is a matter which the learned magistrate has to be decided. Having regard to the above the following directions are issued.

1. Petitioner shall surrender before the officer investigating Crime Nos.3249 and 3620 of 2013 of the Aluva East Police Station on 18.11.2013 at 10.00 am for interrogation.

2. In case interrogation of the petitioner is not completed that day, it is open to the investigating officer to direct presence of the petitioner on any other day/days and time which the petitioner shall comply.

3. It is open to the petitioner to produce all the documents which he considers are relevant before the investigating officer which the latter has to look into.

4. After interrogation, in case arrest of Bail Appl. Nos.7295 & 7306 of 2013 5 the petitioner is recorded in Crime Nos.3249 and 3260 of 2013, he shall be produced before the jurisdictional magistrate the same day.

5. It is open to the petitioner to move application for bail before the learned magistrate with intimation given to the Assistant Public Prosecutor concerned of his intention to move such application, at least three working days in advance.

6. In case for any reason, custody of the petitioner is required, it is open to the investigating officer to move application before the learned magistrate.

7. Learned magistrate shall consider whether the custody of the petitioner is required and/ or whether request for bail could be allowed having regard to the fact situation and taking into account all the relevant documents which the investigating Bail Appl. Nos.7295 & 7306 of 2013 6 officer may be taking into custody, result of the interrogation of petitioner and other relevant materials and pass appropriate orders as early as possible. Sd/- THOMAS P. JOSEPH JUDGE NS

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