

Haris Vs. State of Kerala

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Court : Kerala

Decided On : Oct-29-2013

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Haris

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH TUESDAY, THE 29TH DAY OF OCTOBER 2013 7TH KARTHIKA, 1935 Bail Appl..No. 7058 of 2013 (A) ----- AGAINST THE

ORDER

IN CR.M.P.No.3817/2013 of D.C. & SESSIONS & MACT, KASARAGOD DATED 08-10-2013 CRIME NO. 579/2013 OF VIDYA NAGAR POLICE STATION , KASARAGOD PETITIONERS/ACCUSED 1 TO 4 -----

1. HARIS P.A. AGED 26 YEARS S/O. AHAMMED, THOTTATHIL HOUSE, MARTHOMA ROAD CHERKALA, KASARAGOD.

2. ABDUL SHAFEEK P. @ AKTHAR, AGED 22 YEARS S/O. ABDUL RAHIMAN, POVVAL JUMA MASTID ROAD MULIYAR POST, KASARAGOD.

3. MANSOOR AGED 23 YEARS S/O. A.M.SHAFI, BALADKA HOUSE, CHERKALA CHENGALA, KASARAGOD.

4. SAFEER P.K. AGED 21 YEARS S/O. ABOOBACKER C.K., CHERKALA HOUSE, CHENGALA POST KASARAGOD. BY ADVS.SRI.GRASHIOUS KURIAKOSE (SR.) SRI.GEORGE MATHEWS RESPONDENT/COMPLAINANT: ----- STATE OF KERALA STATION HOUSE OFFICER, VIDYANAGAR POLICE STATION KASARAGOD, REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SRI.SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29.10.2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rmm THOMAS P. JOSEPH, J.

----- Bail Appl. No.7058 of 2013
----- Dated this the 29th day of October 2013

ORDER

Petitioners are accused nos.1 to 4, in Crime No. 579 of 2013 of the Vidyanagar Police station for the offences punishable under Secs. 143, 147, 148, 153(A), 506(ii) and 427 read with Sec.149 of the Indian Penal Code. Allegation is that on 29.09.2013 at the relevant time the petitioners and others armed with deadly weapons committed rioting and in order to create communal disharmony, intimidated the defacto complainant who was going in a car, apprehend arrest and have filed this application.

2. Learned senior advocate contends that the offence under Sec.153(A) of the IPC will not stand since the petitioners and the defacto complainant belong to the same community. That is a matter which the investigating officer should look into.

3. Learned Public Prosecutor has submitted that the 1st accused is involved in Crime Nos.944 and 945 of 2011 involving the offences under the IPC. It is also submitted that due to the act of the petitioners and others, loss of Rs.10,000/- (Rupees ten thousand only) was caused to the defacto complainant. Bail Appl. No.7058 of 2013 2 4. Learned senior advocate would submit that the information he has received is that the loss of the defacto complainant was compensated.

5. Having regard to the circumstances stated, I am inclined to grant relief to the petitioners but, subject to stringent conditions.

1. Petitioners shall surrender before the officer investigating Crime No.579 of 2013 of Vidyanagar Police Station on 04.11.2013 at 10.00 am for interrogation.

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

3. In case arrest of the petitioners is recorded, they shall be produced before the jurisdictional magistrate the same day.

4. On such production, learned magistrate shall release the petitioners on bail on their executing bond for Rs.25,000/- (Rupees twenty five thousand only) each with two sureties each for the like sum each to the satisfaction of the learned Bail Appl. No.7058 of 2013 3 magistrate and subject to the following conditions: a) Unless the defacto complainant files affidavit before the learned magistrate that the loss caused to him is compensated, petitioners shall deposit Rs.10,000/- (Rupees ten thousand only) in a nationalised bank in their joint names (initially for a period of two years and renewable as per order of the learned magistrate) and produce the Fixed Deposit receipt before the learned magistrate so that if the case is decided against the petitioners or any of them and they are directed to pay compensation, such compensation could be realised from the amount in deposit. b) Petitioners shall report to the officer investigating Crime No.579 of 2013 of the Vidyanagar Police station on every Saturday between 10.00 am and 12.00 pm for a period of two months or until filing of the final report, whichever is earlier. c) Petitioners shall report to the investigating officer as and when required for interrogation. d) Petitioners shall not get involved any offence during the period of this bail. Bail Appl. No.7058 of 2013 4 e) Petitioners shall not influence or intimidate the witnesses. f) In case any of the above condition is violated, it is open to the investigating officer to file application before the learned magistrate for cancellation of the bail granted hereby, as held in P.K. Shaji V. State of Kerala (AIR 2006 SC100. THOMAS P. JOSEPH JUDGE NS