

Kalesh Vs. State of Kerala

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Court : Kerala

Decided On : Oct-30-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Kalesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID WEDNESDAY, THE 30TH DAY OF OCTOBER 2013 8TH KARTHIKA, 1935 CrI.MC.No. 4963 of 2013
----- AGAINST THE

ORDER

IN CRMP NO.1386/2013 OF SESSIONS COURT, PATHANAMTHITTA DATED 25-10-2013 CRIME NO.1420/2013 OF PATHANAMTHITTA POLICE STATION, PATHANAMTHITTA PETITIONER(S)/ACCUSED NOS.1 & 2:
----- 1. KALESH, AGED 29 YEARS, S/O. BHASKARAN, VADAKECHERIVIL, KULASEKAHARAPATHI, PATHANAMTHITTA.

2. THULASIDAS, AGED 32 YEARS, VADAKECHERIVIL, KULASEKAHARAPATHI, PATHANAMTHITTA. BY ADV. SRI.C.P.SAJI RESPONDENT: COMPLAINANT:
----- STATE OF KERALA, REPRESENTED BY

THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031. BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.10.2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss CrI.MC.No. 4963 of 2013 ----- APPENDIX PETITIONER(S)' ANNEXURES: ----- ANX.A1. TRUE COPY OF THE

ORDER

DATED 25.10.2013 IN CRL. M.P. NO. 1386 OF 2013 OF THE SESSIONS COURT, PATHANAMTHITTA. RESPONDENT(S)' ANNEXURES: ----- N I L /TRUE COPY/ P.A.TO JUDGE Kss HARUN-UL-RASHID, J.

----- CrI.M.C. No.4963 of 2013 ----- Dated this the 30th day of October 2013.

ORDER

Petitioners are accused Nos.1 & 2 in crime No.1420/2013 of the Pathanamthitta Police Station. They filed the CrI.M.P. No. 1386/2013 under Section 439 of Cr.P.C. The offence alleged are punishable under Sections 324 read with Section 34 of IPC and Section 25(1) of the Indian Arms Act.

2. The prosecution case is that on 29.9.2013 at about 8.30 p.m, due to previous enmity the defacto complainant has filed a criminal complaint before the Police against the petitioners and that in furtherance of their common intention, the 1st and 2nd accused attacked the defacto-complainant with prohibited arms like iron stick and sword stick and thereby the defacto complainant has sustained grievous injuries. Petitioners are in judicial custody. They were arrested on 25.9.2013 and 26.9.2013 respectively. The original bail application filed before the Chief Judicial Magistrate Court, Pathanamthitta was dismissed on 3.10.2013. The petitioners moved Sessions Judge for bail. The said petition was also dismissed on 10.10.2013. CrI.M.C. No.4963/2013 :

2. :

3. Petitioner filed present CMP No.1368/2013 for bail. The court below after considering the entire facts and circumstances, held that no purpose would be served in keeping the petitioners behind the bars indefinitely. The bail was granted subject to several conditions.

4. Petitioners are aggrieved by condition No.1 to the extent the court directs the petitioner and sureties to produce the original title deed. Petitioners are also aggrieved by the direction that the petitioners shall not enter into Pathanamthitta village where the defacto complainant is residing except for the purpose of appearing before the Investigating Officer, until further orders.

5. Petitioners are coolie workers and are residing within the territorial area of the same village. It is submitted that petitioners have no house out side Pathanamthitta Village and the house of the petitioners are situated in the Lakshamveedu colony in Pathanamthitta Village. It is pointed out that directions issued not to enter into Pathanamthitta Village is highhanded, unjust and unreasonable. It is also submitted that the sureties are not in possession of their original title deeds. They have pledged their title deeds with financial institutions while they have availed loans and as such they were unable to produce the original deeds.

6. In the facts and circumstances noticed, this Court is inclined CrI.M.C. No.4963/2013 :

3. : to grant relief to the petitioners. The order dated 25.10.2013 is modified. The direction to produce the original title deeds and condition No.8 are deleted. The CrI.M.C is disposed of as above. Sd/- HARUN-UL-RASHID, Judge. AL/- True copy P.A to Judge

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