

Abdul Rasheed Vs. Sub Inspector of Police, Nallalam

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Court : Kerala

Decided On : Jan-01-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Abdul Rasheed

Respondent : Sub Inspector of Police, Nallalam

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH WEDNESDAY, THE 11TH DAY OF JANUARY 2014 11TH POUSHA, 1935 Bail Appl..No. 8357 of 2013 () ----- CRIME NO. 556/2013 OF NALLALAM POLICE STATION , KOZHIKODE PETITIONERS/ACCUSED: ----- 1. ABDUL RASHEED S/O.HAMZA MLUAVI, AAMBUKAD HOUSE, RAHMAN BAZAR CHERUVANNUR AMSOM DESOM, KOATHARA, KOZHIKODE TALUK 2 K.T.SHAMMEM, AGED 38 YEARS S/O.K.T.ABDULLA KOYA, VADIYIL HOUSE ODEPC HOUSING COLONY, MODERN BAZAR, P.O.KOLATHARA CALICUT. BY ADV. SRI.P.V.KUNHIKRISHNAN RESPONDENTS/COMPLAINANT & STATE: ----- 1. SUB INSPECTOR OF POLICE, NALLALAM NALLALAM POLICE STATION, KOZHIKODE - 673 027.

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031. BY PUBLIC PROSECUTOR: ADV.E.M.ABDUL KADIR THIS BAIL APPLICATION HAVING

BEEN FINALLY HEARD ON 01-01-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: THOMAS P. JOSEPH, J.

===== B.A.No.8357 of 2013
===== Dated this the 01st day of January, 2014

ORDER

Petitioners are accused, in Crime No. 556 of 2013 of the Nallalam Police Station for the offences punishable under Secs.341, 323, 324 and 326 r/w. Sec.34 of the Indian Penal Code, apprehend arrest and have filed this application.

2. Learned Public Prosecutor has opposed the application. It is submitted that on 12.11.2013 at about 8.30p.m, the petitioners attacked the de facto complainant with iron pipe and wooden stick and caused hurt/grievous hurt. Learned Public Prosecutor submits that the de facto complainant suffered fracture of the nasal bone and that the weapons are not so far recovered.

3. Learned counsel for the de facto complainant also resisted the application on the above said grounds.

4. Learned counsel for the petitioners submits that the de facto complainant and others attacked the first petitioner on 12.11.2013 at 8.30p.m, having trespassed into his compound. The first petitioner was admitted in the hospital as revealed by Annexure-B. The police registered Crime No.555 of 2013 for the offences under Secs.448, 341 and 323 r/w Sec.34 of the Penal Code B.A.No.8357 of 2013 2 against the de facto complainant and others. The first petitioner was admitted in the hospital on the same day at 8.43p.m. It is submitted that according to the de facto complainant the incident occurred in front of house of the first petitioner, de facto complainant rushed to the house of the first petitioner to save himself and when he came out of the compound to the road at about 8.45p.m, he was attacked. According to the learned counsel, that version is unbelievable since Annexure-B would show that the first petitioner was admitted in the hospital on 12.11.2013 at 8.43 p.m.

5. I must bear in mind that the police registered Crime No.555 of 2013 against the de facto complainant and others for various offences including Sec.448 of the Penal Code which indicate that as per that version, the de facto complainant and others trespassed into the compound of the first petitioner. In the circumstances, I am inclined to grant relief to the petitioners but subject to condition. Resultantly this application is disposed of as under: (i) Petitioners shall surrender before the officer investigating Crime No.556 of 2013 of the Nallalam Police Station on 07.01.2014 at 10 a.m for interrogation. (ii) In case interrogation is not completed that day, it is open to the officer B.A.No.8357 of 2013 3 concerned to direct presence of the petitioners on other day/days and time as may be specified by him which the petitioners shall comply. (iii) Petitioners shall co-operate with the investigation of the case. (iv) In case arrest of the petitioners is recorded, they shall be produced before the jurisdictional magistrate the same day. (v) On such production, it is open to the petitioners to request for bail with intimation given to the Assistant Public Prosecutor concerned atleast three working days in advance. (vi) If custody of the petitioners is required for any purpose, it is open to the Investigating Officer to move application before the learned magistrate. (vii) Learned magistrate shall dispose of the application(s) having regard to all relevant circumstances including registration of Crime No.555 of 2013 for the offences as aforesaid, statement of the petitioners while interrogated by the police, whether custody of the petitioners is required for recovery of the material objects and such other purpose and pass appropriate orders as early as possible. Sd/- THOMAS P.JOSEPH, JUDGE. Sbna True Copy P A to Judge

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