

Gopi Vs. State of Kerala

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Court : Kerala

Decided On : Jan-30-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Gopi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH THURSDAY, THE 30TH DAY OF JANUARY 2014 10TH MAGHA, 1935 Bail Appl..No. 620 of 2014 ----- CRIME NO. 2582/2013 OF KUNDARA POLICE STATION , KOLLAM PETITIONER(S)/2ND & 3RD ACCUSED: ----- 1. GOPI, AGED 70 YEARS, S/O. BHASKARAN, RESIDING AT NANDANAM VEEDU, MUNDAKKAL, PERUMPUZHA P.O. KOLLAM DISTRICT.

2. BIJU, AGED 38 YEARS, S/O. GOPI, CHAMAVILA VADAKKATHIL, MUNDAKKAL, PERUMPUZHA P.O, KOLLAM DISTRICT. BY ADV. SRI.V.A.AJIVASS RESPONDENT(S)/COMPLAINANT: ----- STATE OF KERALA, REPRESENTED BY THE SUB INSPECTOR OF POLICE, KUNDARA POLICE STATION, KOLLAM DISTRICT, THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT. S. HYMA THIS BAIL

APPLICATION HAVING COME UP FOR ADMISSION ON3001-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss THOMAS P. JOSEPH, J.

----- Bail Appl. No.620 of 2014
----- Dated this the 30th day of January 2014

ORDER

Petitioners are accused nos.2 and 3 in Crime No.2582 of 2013 of the Kundara Police station for the offences punishable under Secs.447, 341, 326, 294(b), 323 and 324 read with Sec.34 of the Indian Penal Code, apprehend arrest and have filed the application.

2. Case is that on 17.12.2013 at about 4 p.m., the petitioners and others trespassed into the house of the defacto complainant and attacked her and son. The 1st petitioner/2nd accused is said to have assaulted the son of the defacto complainant with iron rod. The iron rod is not recovered.

3. Learned Public Prosecutor has opposed the application.

4. Learned counsel submits that the 1st accused was arrested on 06.01.2014. The defacto complainant is engaged in sale of illicit liquor. The petitioner and others protested against it. They are falsely implicated. On going through the file, I find that the statement of the witnesses to the alleged incident is that the 1st petitioner used a wooden stick and assaulted son of the defacto complainant causing fracture of Bail Appl. No.620 of 2014 2 the nasal bone. The wooden stick is recovered from the scene of occurrence.

5. Having regard to the circumstances, I am inclined to grant relief to the petitioners subject to conditions but, at the same time protecting the interest of the defacto complainant and son as well. The application is allowed as under.

1. Petitioners shall surrender before the officer investigating Crime No.2582 of 2013 of the Kundara Police station on 05.02.2014 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/days and time which the petitioners shall comply.

3. Petitioners shall co-operate with investigation of the case.

4. In case petitioners are arrested, they shall be produced before the jurisdictional magistrate the same day.

5. On such production learned magistrate Bail Appl. No.620 of 2014 3 shall release the petitioners on bail (if not required to be detained otherwise) 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 magistrate and subject to the following conditions : a) One of the sureties shall be a close relative of any of the petitioners. b) The 1st petitioner shall deposit Rs.10,000/- (Rupees ten thousand only) and the 2nd petitioner shall deposit Rs.5,000/- (Rupees five thousand only) in a nationalised bank in their respective names initially for a period of two years (renewable as per order of the jurisdictional magistrate) and produce the fixed deposit receipts before the learned magistrate while executing the bail bonds. c) In case the petitioners or any of them are found liable to compensate the defacto complainant or her son, such compensation could be realised from the amount in deposit made by the respective petitioners who is found liable. Bail Appl. No.620 of 2014 4 d) Petitioners shall report to the investigating officer 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. e) Petitioners shall report to the investigating officer as and when required for interrogation. f) Petitioners shall not get involved any offence during the period of this bail. g) Petitioners shall not intimidate or influence the witnesses. h) In case any of condition nos.(d) to (g) 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. Sd/- THOMAS P. JOSEPH JUDGE /True Copy / NS P.A. To Judge