

Najeeb Vs. State of Kerala

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Court : Kerala

Decided On : Feb-18-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Najeeb

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN TUESDAY, THE 18TH DAY OF FEBRUARY 2014 29TH MAGHA, 1935 Crl.MC.No. 1251 of 2014 ()
----- CRIME NO. 1093/2009 OF CENTRAL POLICE STATION, ERNAKULAM DISTRICT ----- PETITIONER/ACCUSED :
----- NAJEEB, AGED 40 YEARS S/O. ANTHRU, VATTAKKATTUPUTHANPURAYIL HOUSE SULTAN BATTERY, WAYANAD DISTRICT. BY ADV. SRI.S.DILEEP (KALLAR) RESPONDENT/ COMPLAINANT :
----- THE STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE P. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-02-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn K. Ramakrishnan, J.

===== Crl.M.C.No.1251 of 2014
===== Dated this, the 18th day of February,

2014.

ORDER

This is an application filed by the petitioner who is the accused in C.C.No.2462/09 on the file of the Judicial First Class Magistrate Court No-II, Ernakulam for issuing a direction to the magistrate under Section 482 of Code of Criminal Procedure.

2. It is alleged in the petition that he was implicated as an accused in Crime No.1093/09 of Central Police Station, Ernakulam, alleging that he has committed the offence under Section 379 of Indian Penal Code. He was arrested by the police on 22.05.2009. Thereafter, he was produced before the court and released on bail on executing a bond with sureties before Judicial First Class Magistrate Court No-II, Ernakulam. Thereafter, he went to his native place Sultan Bathery and he was residing there. He has not received any summons from court. But on 04.02.2014, the Village Officer of that locality came to the house of the petitioner enquiring about his properties and at that time only, he came to understand that non-bailable warrant is pending against him and steps under CrI.M.C.No.1251 of 2014 :

2. : Section 82 and 83 of Code of Criminal Procedure were initiated against him for his non-appearance before the court. Then only he came to know that investigation in this case was completed and final report filed and case was taken on file as C.C.2462/09. Though, he is prepared to surrender before that court and move for bail, he apprehends that he is likely to be remanded by the presiding officer. So, he has no other remedy except to approach this court under Section 482 of Code of Criminal Procedure for appropriate relief. So, the petition is filed by the petitioner seeking following relief: "It is humbly prayed that this Honourable Court may be pleased to direct the Judicial First Class Magistrate Court-II, Ernakulam to release the petitioner on bail in the event of his surrender in C.C.No.2462/09, by allowing this Criminal Miscellaneous Case." 3. Considering the nature of relief claimed in the petition, this court felt that this can be disposed of at the admission stage itself after hearing the Counsel for the petitioner and the Public Prosecutor.

4. The Counsel for the petitioner submitted that he wants only a direction to the magistrate directing him to Crl.M.C.No.1251 of 2014 :

3. : dispose of the bail application and grant bail to him. But, such a direction cannot be given by this court as it is a matter to be considered by that court while considering the bail application filed by the petitioner. The petitions are coming before this court stating that the application for bail filed on surrender is not being disposed of by courts and seeking direction for that purpose. It has to be mentioned here that there is a duty cast on every presiding officer to consider and dispose of the bail applications filed by the accused persons on their surrender before that court after hearing the Assistant Public Prosecutor or Public Prosecutor as the case may be as far as on the date of filing the application itself, so that they can pursue the remedy if the application is disposed of against them. So, considering the circumstances, I feel that the petition can be disposed of as follows:

1. If the petitioner surrenders before the concerned magistrate court namely Judicial First Class Magistrate Court No-II, Ernakulam and move for bail after recalling the non-bailable warrant issued him in C.C.No.2462/09 (Crime No.1093/09 of Central Police Station, Ernakulam) pending before the Judicial First Class Magistrate No-II, Ernakulam, then, the learned magistrate is directed to consider the reasons stated for the petitioner for his non-appearance and dispose of the bail application Crl.M.C.No.1251 of 2014 :

4. : and application to recall warrant after hearing the Assistant Public Prosecutor of that court as expeditiously as possible on the same date of filing the application itself in accordance with law. With the above direction and observation, the petition is disposed of. Office is directed to communicate this order to the concerned court immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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