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Court : Kerala

Decided On : Mar-07-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Vinod Kumar @ Vinod

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH FRIDAY, THE 7TH DAY OF MARCH 2014 16TH PHALGUNA, 1935 Bail Appl..No. 1314 of 2014 ----- CRIME NO. 637/2013 OF ADOOR POLICE STATION , PATHANAMTHITTA DISTRICT ----- PETITIONER: ----- VINOD KUMAR @ VINOD, AGED 29 YEARS, S/O.VIJAYAKUMAR, VIJAY BHVAN, KOLASSRY, EZHAMKULAM, ADOOR, NEDUMON P.O, PATHANAMTHITTA DISTRICT BY ADV. SRI.VARGHESE C.KURIAKOSE RESPONDENTS: ----- 1. STATE OF KERALA, REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER, ADOOR POLICE STATION, PATHANAMTHITTA DISTRICT-689 137. BY PUBLIC PROSECUTOR SMT.NISHA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07-03-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Msd. THOMAS P. JOSEPH, J.

ORDER

Petitioner is accused in Crime No.637 of 2013 of the Adoor Police station for the offences punishable under Secs.294(b), 324 and 307 of the Indian Penal Code, apprehends arrest and has filed the application.

2. Learned Public Prosecutor has opposed the application. It is submitted that on 02.04.2013 at about 4.45 p.m., the petitioner attacked the defacto complainant and another with sword stick and inflicted serious injuries on the frontal bone. Investigation of the case is not completed.

3. Learned counsel submitted that the allegations are not true. It is submitted that on the relevant day and time, the defacto complainant and others trespassed into the house of the petitioner and assaulted him, his mother etc. with knife. It is submitted that version of the Police that inspite of the petitioner Bail Appl. No.1314 of 2014 2 being implicated under Sec.307 of the Indian Penal Code, he was not arrested when he went to the Police station on the next day to give statement based on which Crime No.638 of 2013 is registered, cannot be believable. According to the learned counsel, place of occurrence in Crime No.638 of 2013 is the house of the petitioner. It is also argued that version of the defacto complainant in Crime No.637 of 2013 is unbelievable.

4. In response, learned Public Prosecutor submitted that Crime No.638 of 2013 is registered for the offences under Secs.294(b), 324 and 341 read with Sec.34 of the Indian Penal Code. Investigation revealed that the allegation against the defacto complainant and others is not true and hence a Refer Report would be filed in the Court concerned.

5. In answer to the said contention, learned counsel would submit that the petitioner has already preferred complaint to the Minister concerned for directing further investigation of the case. Bail Appl. No.1314 of 2014 3 6. I have gone through the CD file in Crime No.638 of 2013 as well. It is seen that the incident

occurred on 02.04.2013 at about 4.45 p.m. and on 03.04.2013 at about 6.30 p.m., the petitioner went to the Adoor Police station and gave a statement implicating the defacto complainant and others for alleged trespass into the house and assaulting himself, mother and others. It is revealed from the documents produced by the petitioner along with this application that the petitioner sustained injury on his left leg below knee with no active bleeding (at the time of examination). Mother of the petitioner had only a complaint of pain with no external injuries. According to the investigating agency, the petitioner sustained injury during the course of his attacking the defacto complainant and others as stated in Crime No.637 of 2013.

7. At this stage, I need not go into the acceptability of the rival contentions. It is revealed that the defacto complainant sustained serious injuries on the frontal bone due to attack with sword stick. As revealed Bail Appl. No.1314 of 2014 4 now, the place of occurrence is not house of the petitioner.

8. Having regard to the relevant circumstances, request for pre arrest bail cannot be allowed. It is directed that incase the petitioner is arrested, he shall be produced before the jurisdictional magistrate as early as possible. The application is disposed of with the above direction. Sd/- THOMAS P. JOSEPH JUDGE / True Copy / NS P.A. To Judge

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