

Haris Vs. State of Kerala

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Court : Kerala

Decided On : Mar-14-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Haris

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 14TH DAY OF MARCH 2014 23RD PHALGUNA, 1935 CrI.MC.No. 1636 of 2014 ()
----- CRIME NO. 247/2008 OF BADIADKA POLICE STATION, KASARAGOD DISTRICT ----- PETITIONERS/ACCUSED :
----- HARIS, AGED 42 YEARS S/O. OF IBRAHIM, VOLAMOGARU HOUSE, P.O. ARAIPADY BADIADKA, KASARAGOD. BY ADV. SRI.T.B.SHAJIMON RESPONDENT/COMPLAINANT :
----- STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM. BY PUBLIC PROSECUTOR SRI. N. SURESH THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/03-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn K. Ramakrishnan, J.

===== CrI.M.C.No.1636 of 2014
===== Dated this, the 14th day of March, 2014.

ORDER

This is an application filed by the petitioner seeking direction to the Judicial First Class Magistrate Court, No-I, Kasargod, to consider his bail application on the date of filing the application itself under Section 482 of Code of Criminal Procedure.

2. It is alleged in the petition that he is one of the accused in Crime No.247/08 of Badiadka Police Station. On the basis of the statement given by the de facto complainant, Badiadka police has registered above crime against the petitioner and others and after investigation, final report was filed before the Judicial First Class Magistrate Court, No-I, Kasargod and that was originally taken on file as C.P.No.31/09 and case against all other accused persons except the present petitioner was committed to the Court of Sessions and the Sessions court has taken cognizance of the case as S.C.No.410/10 and made over to Additional Sessions Court No- I, for disposal and that case is pending before that court. Crl.M.C.No.1636 of 2014 :

2. : Since the petitioner did not appear, the learned magistrate split up the case as against the petitioner as C.P.No.204/12 and non-bailable warrant has been issued and it is pending against him. Unless a direction is given by this court, the learned magistrate will not consider his bail application. So, he has no other remedy except to approach this court seeking the following relief: "To allow this Crl.M.C and may please to direct the court below to consider the bail application in Cr.No.247/2008 of the Badiadka Police Station, now pending as CP No.31/2009 on the file of JFCM I Kasargod. Which would be filed by the petitioner, on the date of filing of the application itself, and release the petitioners on bail." 3. Considering the nature of relief claimed in the petition, this court felt that the petition can be disposed of at the admission stage itself after hearing the Counsel for the petitioner and the learned Public Prosecutor.

4. It is an admitted fact that the petitioner is an accused in Crime No.247/08 of Badiadka Police Station and final report was filed in that case and it was originally taken on file as C.P.31/09 and except the present petitioner, case against all other

accused persons was committed to the Court of Sessions and it is now pending as S.C.410/10 before the Crl.M.C.No.1636 of 2014 :

3. : Additional Sessions Court No-I, Kasargod. The case against the present petitioner has been split up as C.P.204/12 by the Judicial First Class Magistrate Court No-I, Kasargod, and it is pending and non-bailable warrant was issued and it is also pending against him. The apprehension of the petitioner is that, if he surrenders, he is likely to be remanded and his bail application will not be considered on the same day itself by the court below. The apprehension is without any basis. If an accused surrenders before a court and moves for recalling the warrant or release him on bail, a duty is cast on the court to pass orders on those applications on the date of filing the application itself as far as possible unless other compelling circumstances warrant the postponement of the passing of the orders to later date. So, there is no necessity to issue any direction as such as required in the petition. However, considering the circumstances and the apprehension mentioned in the petition, this court feels that the petition can be disposed of as follows: If the petitioner surrenders before the Judicial First Class Magistrate Court, No-I, Kasargod, and moves for recalling the non-bailable warrant issued against him and also for release him on bail in Crime No.247/08 of Badiadka Police Station in respect of other accused persons which was taken on file as Crl.M.C.No.1636 of 2014 :

4. : C.P.No.31/09, then, the learned magistrate is directed to consider and dispose of those applications after hearing Assistant Public Prosecutor of that court on the date of filing of the application itself as far as possible in accordance with law. With the above direction and observation, the petition is disposed of. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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