

Ummer Vs. State of Kerala

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Court : Kerala

Decided On : Mar-26-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Ummer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH WEDNESDAY, THE 26TH DAY OF MARCH 2014 5TH CHAITHRA, 1936 Bail Appl..No. 2049 of 2014 (A) ----- [CRIME NO. 432/2014 OF NARAKKAL POLICE STATION] PETITIONER/ ACCUSED: ----- UMMER, AGED 54 YEARS, S/O. PAREEKUTTY, ALIYAMVEETIL, MALIPURAM P.O, KOCHI TALUK, ERNAKULAM - 682 511. BY ADV. SRI.ASHIK K.MOHAMED ALI. RESPONDENT/ COMPLAINANT: ----- STATE OF KERALA, REPRESENTED BY THE SUB INSPECTOR OF POLICE, NARAKKAL POLICE STATION, NARAKKAL, ERNAKULAM DISTRICT (REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM). BY PUBLIC PROSECUTOR SMT. LALIZA. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26-03-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Prv. THOMAS P. JOSEPH, J.

ORDER

Petitioner is accused in Crime No.432 of 2014 of the Narakkal Police station for the offences punishable under Secs.294(b) and 326 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 04.03.2014 at about 10 p.m., the defacto complainant purchased cigarette from the shop of the petitioner and when asked for the balance, the petitioner collected a hammer and assaulted the defacto complainant causing fracture. The hammer is not recovered.

3. Learned counsel submitted that the allegations are not true. The balance amount due to the defacato complainant was paid and he went off from the shop. After sometime the defacto complainant returned demanding balance amount and threw away fruits kept in the shop for sale. When the petitioner was collecting the Bail Appl. No.2049 of 2014 2 fruits from the road, the defacto complainant attacked him with a stone. There was a scuffle in the course of which the defacto complainant fell on a concrete slab and sustained injury. The Police have registered Crime No.435 of 2014 against the defacto complainant for the offences under Secs.341, 323, 448 and 294(b) of the Indian Penal Code.

4. Since it is submitted that the hammer allegedly used by the petitioner is not recovered, I am not inclined to exercise power under Sec.438 of the Code of Criminal Procedure.

5. In the circumstances, I am inclined to issue directions. The application is disposed of as under.

1. Petitioner shall surrender before the officer investigating Crime No.432 of 2014 of the Narakkal Police station on 02.04.2014 at 10.00 am for interrogation.

2. In case interrogation of the petitioner is not completed that day, it is open to the Bail Appl. No.2049 of 2014 3 investigating officer to direct presence of the petitioner on any other day/days and time which the petitioner shall comply.

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

4. In case the petitioner is arrested, he shall be produced before the jurisdictional magistrate the same day.

5. On such production it is open to the petitioner to request for bail with intimation given to the Assistant Public Prosecutor concerned at least three working days in advance.

6. In case the hammer is not recovered or for any reason the investigating officer requires custody of the petitioner, it is open to the investigating officer also to file application for the purpose.

7. Learned magistrate shall consider the application(s) bearing in mind whether the Bail Appl. No.2049 of 2014 4 hammer is recovered and if so, any other material object is required to be recovered for which custodial interrogation of the petitioner is required and pass appropriate orders as early as possible. Sd/- THOMAS P. JOSEPH JUDGE / True Copy / NS P.A. To Judge

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