

Mohammed Shareef Vs. State of Kerala

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Court : Kerala

Decided On : Apr-04-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Mohammed Shareef

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH FRIDAY,THE4H DAY OF APRIL201414TH CHAITHRA, 1936 Bail Appl..No. 2287 of 2014 ----- CRIME NO. 57/2014 OF CHENGAMANAD POLICE STATION , ERNAKULAM ----- PETITIONER/ACCUSED NO.1: ----- MOHAMMED SHAREEF, AGED61YEARS, S/O.ABDUL RAHMAN, PALLATH AKATHOOT, WEST VELIYATHUNADU, KARUMALLOOR, PARAVUR TALUK, ERNAKULAM DISTRICT. BY ADVS.SRI.S.RAJEEV SRI.K.K.DHEERENDRAKRISHNAN RESPONDENTS/STATE: ----- 1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM -682 031 (CRIME NO.57/2014 OF CHENGAMANAD POLICE STATION , ERNAKULAM DISTRICT).

2. STATION HOUSE OFFICER, CHENGAMANAD POLICE STATION, ERNAKULAM DISTRICT- 691 557. (CRIME NO.57/2014 OF CHENGAMANAD

POLICE STATION, ERNAKULAM DISTRICT). BY PUBLIC PROSECUTOR SMT.LALIZA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/04/2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ THOMAS P. JOSEPH. J.

===== Bail Application No.2287 of 2014
===== Dated this the 4th day of April, 2014

ORDER

Petitioner is the 1st accused in Crime No. 57 of 2014 of the Chengamanad police station for the offences punishable under Secs. 416, 420, 464, 465, 408, 471 and 120(b) r/w. Sec.34 of the Penal Code, apprehends arrest and has filed this application.

2. Application is opposed. It is submitted that the petitioner and others impersonating the husband of the de facto complainant forged a document concerning his property.

3. Learned counsel submits that the allegations are not true. It is true that the property belonged to Ebrahim, husband of the de facto complainant. Advocate Hakim negotiated sale of that property and the petitioner decided to purchase it. At a time when the petitioner was abroad (learned counsel submits that passport of the petitioner B.A. NO. 2287 of 2014 2 would reveal that), Annexure - 1, sale deed was executed in favour of the petitioner on 24.11.1998 with the said Hakim figuring as an attesting/identifying witness. Later, there was some dispute between the petitioner and Hakim and civil cases are pending. Hakim issued Annexure - II, notice on behalf of the de facto complainant alleging that the Annexure -1, document was got executed impersonating her husband. Petitioner filed a complaint against the said Hakim and others. While so, the de facto complainant filed a complaint through Hakim alleging offences as first above mentioned.

4. Learned counsel has given me the copy of reverse side of the first page of Annexure - 1, sale deed dated 24.11.1998 and has pointed out that Hakim figures as the identifying witness. In the last page of Annexure - 1, he figures as attesting

witness. Learned counsel asserts that passport of the petitioner would show that he was abroad at the time Annexure - 1, sale deed was executed. It is B.A. NO. 2287 of 2014 3 relevant to note that Hakim who (allegedly) figures as attesting/identifying witness has issued Annexure- II, notice to the petitioner on behalf of Suhara, wife of Ebrahim alleging impersonation. What exactly is the role if any of the said Hakim in the alleged execution of Annexure - 1, document may have to be looked into. Having regard to the relevant circumstances, I am satisfied that custodial interrogation of the petitioner is not necessary. Application is allowed as under:-

- 1) Petitioner shall surrender before the officer investigating Crime No. 57 of 2014 of the Chengamanad police station on 14.04.2014 at 10:00 a.m. for interrogation.
- 2) In case interrogation is not completed that day, the said officer can direct the petitioner to appear before him on any other date/dates and time which he shall comply.
- 3) Petitioner shall co-operate with the investigation of the case. B.A. NO. 2287 of 2014 4
- 4) Petitioner shall hand over all the relevant documents in his custody, control and possession relating to the matter under investigation and as may be required by the investigating officer.
- 4) In case the petitioner is arrested, he shall be produced before the jurisdictional magistrate the same day.
- 5) On such production the petitioner shall be released on bail, (if not required to be detained otherwise) on his executing bond for Rs.25,000/- (Rupees Twenty five thousand only) with two sureties 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 the petitioner.
 - b) Petitioner shall surrender his passport before the learned magistrate while executing the bail bond.
 - c) Petitioner shall report to the investigating officer on every alternate Saturday between 10:00 a.m. and 12:00 p.m. until filing of the final report or for a period of two months, whichever is earlier.
 - d) Petitioner shall report to the investigating officer as B.A. NO. 2287 of 2014 5 and when required for investigation.
 - e) Petitioner shall not leave the State of Kerala until otherwise ordered and except with the permission of the learned magistrate.
 - f) Petitioner shall not get involved in any similar offence during the period of this bail.
 - g) Petitioner shall not intimidate/influence the witnesses.
 - h) It is made clear that in case any of condition Nos. (c) to (g) is violated, it is open to the Investigating Officer to seek cancellation of the bail granted hereby by moving application

before the learned magistrate as held in P.K. Shaji V. State of Kerala (AIR2006 Supreme Court 100). i) In case for any reason the petitioner requires the passport, he may move the learned magistrate for that purpose and if any such application is made, learned magistrate shall consider the stage of investigation/trial, time required for its completion, necessity for presence of the petitioner, other relevant circumstances and pass orders on merit, if necessary imposing additional B.A. NO. 2287 of 2014 6 conditions and requiring additional security from the petitioner. In case the passport is allowed to be returned for any period and the petitioner is permitted to go abroad for such period , it is open to the learned magistrate to modify such of the conditions imposed on the petitioner to permit him go abroad for such period. Sd/- THOMAS P.JOSEPH, JUDGE //true copy// P.A. to Judge Smv

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