

Jithesh M.K. Vs. State of Kerala

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Court : Kerala

Decided On : Apr-02-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Jithesh M.K.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH WEDNESDAY, THE 2D DAY OF APRIL 2014 12TH CHAITHRA, 1936 Bail Appl..No. 2214 of 2014 ----- CRIME NO. 557/2014 OF NORTH PARAVUR POLICE STATION , ERNAKULAM PETITIONERS/ACCUSED: ----- 1. JITHESH M.K., AAGED 28 YEARS, S/O.KRISHNAN, MARAMPARAMBIL, MAKKANAI, MANNAM P.O.

2. JAYESH P.B., AAGED 28 YEARS, S/O.BHASKARAN, PANKIYAMPARAMBIL, PALLIPPURAM, MUNAMBAM, VELANKANNI BEACH.

3. SUDHISH P.S., AAGED 25 YEARS, S/O.SUBRAMANIAN, KIZHAKKETHOPPIL, MANNAMP.O., MAKKANAI.

4. DHANISH M.D., AAGED 27 YEARS, S/O.DASAN, MANKUZHIPARAMBIL, KIZHAKKETHOPPU, MANNAM P.O., MAKKANAI.

5. PRAMOD P.P.,AGED26YEARS, S/O. PRASAD, POOKKATTUPARAMBIL, NANDIYATTUKUNNAM P.O., N.PARAVUR.

6. JITH E.G.,AGED25YEARS, S/O.GOPALAKRISHNAN, PATHIYARI, EDAYATTUPARAMBIL, NANDIYATTUKUNNAM, N.PARAVUR.

7. PRASANTH M.P., AGED25YEARS, S/O.PRAKASAN, MAKKANAIPARAMBIL, MANNAM P.O., N.PARUR. Kss ..2/- ..2.. B.A.NO.2214/2014 8. SREEJITH P.G., AGED25YEARS, S/O.GOPALAN, PAZHAYAKADU , MANJALI, MANNAM P.O,N.PARAVUR.

9. SHIHAB J.I., AGED25YEARS, S/O.ISMAIL, KALLUKULAM, MANNAM P.O., N.PARAVUR10 MANIKANTAN,AGED25YEARS, S/O.MADASWAMI, MADATHIPPETTIL, CHANDAPPADAM, MANNAM P.O.

11. VISHNU M.J., AGED25YEARS, S/O.JAYAN, MANKUZHIPARAMB, MAKKANAI, MANNAM P.O.

12. SUDHEESH, AGED29YEARS, S/O.SUTHAN, MAKKANAIPARAMBIL, MANNAM P.O., N.PARAVUR. BY ADVS.SRI.S.RAJEEV SRI.K.K.DHEERENDRA KRISHNAN RESPONDENT/STATE: ----- 1. STATE OF KERALA, REP BY PUBLICPROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM682031 (CRIME NO. 557/2014 OF NORTH PARAVUR POLICE STATION, ERNAKULAM DISTRICT).

2. STATION HOUSE OFFICER, NORTH PARAVUR POLICE STATION, ERNAKULAM DISTRICT - 683 513(CRIME NO. 557/2014 OF NORTH PARAVUR POLICE STATION,ERNAKULAM DISTRICT). R1 & R2 BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON0204-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss THOMAS P. JOSEPH, J ----- B.A.No.2214 of 2014 ----- Dated this the 2nd day of April, 2014

ORDER

Petitioners are accused Nos. 1 to 12 in Crime No.557 of 2014 of the North Paravur Police Station for the offences punishable under Sections 143, 147, 148, 323, 324 and 308 r/w Section 149 of the Indian Penal Code, apprehend arrest and have filed the application.

2. Application is opposed by the learned Public Prosecutor. It is submitted that on 16.03.2014 at about 11.30 p.m. in connection with a Temple festival, there was a 'Kavadi' competition and in the course of that, the incident occurred. The first petitioner collected the frame of an electric tube, assaulted the de facto complainant and inflicted injuries. In connection with that, there was another incident in which the sixth petitioner is involved and for that, Crime No.556 of 2014 is registered for the offences punishable under Sections 452, 323 and 506(i) of the Indian Penal Code.

3. Learned counsel submits that the allegations are not true. There was a fight between two groups in the course of the 'Kavadi' competition in which some of them sustained injuries. It is submitted that the sixth petitioner is granted bail in Crime No.556 of 2014 subject to conditions. B.A.No.2214 of 2014 2 4. On hearing both sides it is revealed that the incident occurred on the spur of the moment and the frame of the electric tube which was allegedly used by the first petitioner is recovered. In the circumstances, I am inclined to think that custody of the petitioners is not required. At the same time, interest of the de facto complainant has also to be protected. Hence, I am inclined to grant relief to the petitioners but subject to conditions . Application is allowed as under: (i) Petitioners shall surrender before the Officer investigating Crime No.557 of 2014 North Paravur Police Station on 08.04.2014 at 10 a.m for interrogation. (ii) In case interrogation is not completed that day, it is open to the officer concerned to direct presence of the petitioners on other day/days and time as may be specified by him which the petitioners shall comply. (iii) In case arrest of petitioners is recorded, they shall be produced before the jurisdictional magistrate the same day. (iv) On such production, the petitioners shall be released on bail (if not required to be detained otherwise) on their executing bond for Rs.15,000/- (Rupees fifteen thousand only) each with two sureties each for the like sum each to the B.A.No.2214 of 2014 3 satisfaction of the learned magistrate and subject to the following conditions: (a)

One of the sureties shall be a close relative of any of the petitioners. (b) Petitioners shall deposit of Rs.2,000/- (Rupees two thousand only) each in a Nationalized Bank in their names for a period of two years (renewable as per order of the learned magistrate) and produce the FD receipts before the learned magistrate while executing the bail bond. (c) In case the case is decided against the petitioners or any of them and they are made liable to pay compensation to the defacto complainant, such compensation could be realized from the amount in deposit to the extent possible. (d) Petitioners shall report to the officer investigating the case on every alternate Saturday between 10.00 a.m and 12.00 p.m for a period of two months or until filing of the final report whichever is earlier. (e) Petitioners shall report to the officer investigating the case as and when required for interrogation. (f) Petitioners shall not get involved in any offence during the period of this bail. (g) Petitioners shall not intimidate or influence the B.A.No.2214 of 2014 4 witnesses. (v) It is made clear that in case any of condition Nos. (d) 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 (until committal of the case if any, and thereafter, before the learned Principal Sessions Judge concerned) as held in P.K. Shaji V. State of Kerala (AIR2006 Supreme Court 100). Sd/- THOMAS P. JOSEPH, JUDGE. AS /True Copy/ P.A. to Judge

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