

Ramesh Vs. State of Kerala

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Court : Kerala

Decided On : Apr-01-2014

Judge : Honourable Mr.Justice N.K.Balakrishnan

Appellant : Ramesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE N.K.BALAKRISHNAN TUESDAY, THE 11TH DAY OF APRIL 2014 11TH CHAITHRA, 1936 CrI.MC.No. 877 of 2014 () ----- CRIME NO. 1509/2013 OF PALARIVATTOM POLICE STATION , ERNAKULAM PETITIONER(S)/ACCUSED NO.1: ----- RAMESH AGED 40 YEARS S/O.SANKARAN NAMBOODIRI, CHERUKUTTA ILLAM KOOVAPADY.P.O., PERUMBAVOOR, ERNAKULAM DISTRICT. BY ADVS.SRI.K.T.SHYAMKUMAR SRI.JAI GEORGE SRI.HARISH R. MENON RESPONDENT(S)/RESPONDENTS/STATE AND DE-FACTO COMPLAINANT: ----- 1.REPRESENTED STATE OF KERALA BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM.

2. VIJU VENUGOPAL, AGED 42 YEARS W/O.VENUGOPAL, ERRA 82 KALLUMADATHIL HOUSE PALARIVATTAM, EDAPALLY SOUTH VILLAGE, ERNAKULAM. FOR R2 BY ADV. SRI.K.K.BALAKRISHNAN FOR R1 BY PUBLIC

PROSECUTOR SRI. DHANESH MATHEW MANJOORAN THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 01-04-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 877 of 2014 ()

----- APPENDIX PETITIONER(S)' EXHIBITS -----

ANNEXURE A1- A TRUE COPY OF THE PRIVATE COMPLAINT FILED BY THE 2D RESPONDENT NUMBERED AS CMP NO.2826/2013. ANNEXURE A2- CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.1509/2013 OF PALARIVATTAM POLICE STATION. ANNEXURE A3- TRUE COPY OF THE LETTER LEFT BY THE 2D ACCUSED TO HIS MOTHER. ANNEXURE A4: TRUE COPY OF THE COMPLAINT DATED 17-1-2014 FILED BY THE PETITIONER BEFORE THE COMMISSIONER OF POLICE, ERNAKULAM ALONG WITH THE ACKNOWLEDGMENT RECEIVED FROM THE OFFICE OF THE COMMISSIONER OF POLICE. ANNEXURE A5: TRUE COPY OF THE INFORMATION RECEIVED UNDER THE RTI ACT ALONG WITH THE QUESTIONS. N.K.BALAKRISHNAN, J.

..... CrI.M.C. No. 877 of 2014

Dated:

01. 04-2014

ORDER

Petitioner is the first accused in Crime No. 1509/2013 of Palarivattom Police Station. That crime was registered when a complaint filed by the 2nd respondent before the Judicial First Class Magistrate's Court-I, Ernakulam was forwarded to the police under Sec. 156 (3) Cr.P.C. Offences alleged against the petitioner and another accused mentioned in the complaint, are under Sections 406, 408, 420 and 120 (B) read with Sec. 34 of I.P.C.

2. It is alleged that the de facto complainant was running a coconut Oil Mill by name M/s. Sreelakshmi Agencies. Petitioner is the partner of one M/s. Trado Traders. It is alleged that a cheque for Rs. 33,500/- drawn CrI.M.C. No. 877 of 2014 2 on Punjab National Bank issued by M/s. Trado Traders in favour of M/s. Sreelakshmi Agencies mentioned above was returned unpaid due to insufficiency of fund. The further allegation is that the 2nd accused who was allegedly one of

the partners obtained that dishonoured cheque from the de facto complainant assuring that the money covered by the cheque will be paid. But subsequently he absconded taking away that cheque and also a sum of Rs. 86,000/- from M/s. Sreelakshmi Agencies.

3. It is stated that based on the complaint given by the 2nd respondent herein, after registering the crime, the petitioner was apprehended by the police and he was brutally manhandled by them. The petitioner was arrested by the police at 7.30 p.m. on 14-12-2013, a second Saturday and he was produced before the Magistrate on Sunday at 4 p.m. and he was remanded to judicial custody. Thereafter he was given police custody for two days. He was then taken to the Illam where his family members and relatives were residing, with the deliberate intention to malign his reputation before the family and society. CrI.M.C. No. 877 of 2014 3 4. According to the petitioner, the police officer who was then investigating the case is hand and glove with the 2nd respondent. It is further pointed out that though it was contended by the 2nd respondent that the cheque was stolen away by the 2nd accused and that the 2nd accused had also stolen away a sum of Rs.86,000/-, no complaint was given by the 2nd respondent against the second accused alleging commission of theft. Petitioner's counsel further submits that the 2nd accused is still absconding with the knowledge of the second respondent.

5. This petition is filed contending that the investigation is faulty and that the sole idea is to malign the petitioner and so the investigation may be ordered to be conducted by a superior police officer not below the rank of a Dy.S.P. or Assistant Commissioner.

6. The learned counsel for the 2nd respondent opposes the petition stating that the other accused is absconding and that the petitioner herein is facilitating the abscondance of the other accused. The learned counsel for the petitioner submits that it is only to ensure that a proper CrI.M.C. No. 877 of 2014 4 investigation is conducted, the request is made.

7. The learned Public Prosecutor submits that the respondents have no objection in having the investigation conducted by the Assistant Commissioner of Police. In view of the serious allegation that the petitioner was manhandled or harassed by

the police officer who conducted the investigation earlier and to see that fair and proper investigation is done, this petition is allowed.

8. The Asst. Commissioner of Police, Kochi (Central Police Station - Assistant Commissioner) shall conduct the investigation. The case diary shall be handed over to the Assistant Commissioner, Central Police Station immediately. The investigation shall be completed at the earliest. Dated this the 1st day of April 2014.
Sd/-N.K. Balakrishnan Judge. ani/ /truecopy/ P.S.tojudge

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