

Ahammed Vs. State of Kerala

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Court : Kerala

Decided On : Jun-05-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Ahammed

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH THURSDAY, THE 5TH DAY OF JUNE 2014 15TH JYASHTA, 1936 Bail Appl..No. 3779 of 2014 ----- CRIME NO. 1/2013 OF MAYANNUR FOREST STATION, THRISSUR PETITIONERS/ACCUSED: ----- 1. AHAMMED, S/O. ABDULLA, AGED 56 YEARS, THERUVATH HOUSE, THALAPPILLY TALUK, THRISSUR DISTRICT.

2. SHANAVAS, S/O. AHAMMED, AGED 25 YEARS, THERUVATH HOUSE, THALAPPILLY TALUK, THRISSUR DISTRICT. BY ADV. SRI.K.MOHANAKANNAN RESPONDENTS/COMPLAINANT:

----- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.

2. FOREST RANGE OFFICER, VADAKKANCHERRY, THRISSUR DISTRICT -
680 589. BY PUBLIC PROSECUTOR SRI.SHIBU JOSEPH THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 0506-2014, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss THOMAS P.
JOSEPH, J ----- B.A.No.3779 of 2014
----- Dated this the 5th day of June, 2014

ORDER

Petitioners are accused in O.R. No.01 of 2013 of the Mayannur Forest Station for various offences punishable under the Forest Act for allegedly trespassing into the land notified as EFL and removal of boundary stones, apprehend arrest and have filed the application.

2. Learned Public Prosecutor has opposed the application. It is submitted that the petitioners trespassed into and removed boundary stones of about 3 acres of land lying adjacent to other properties belonging to them.

3. Learned counsel has submitted that the petitioners own and possess around 15.55 acres as per various documents and while so, the forest department issued Annexure-A1 notice followed by Annexures-A2 and A3 notices. The petitioners filed W.P.(C).No.22030 of 2013 challenging the said notices and this Court by order dated 05.09.2013 directed that measurement pursuant to Annexures-A1 to A3 could proceed but there could be no destruction of property or dispossession of the petitioners. By Annexures-A5 to A8, the said interim order was extended. According to the learned counsel, there is no B.A.No.3779 of 2014 2 notification issued that the land in dispute is covered by EFL.

4. On going through Annexures- A4 to A8, I find that the petitioners have challenged steps taken by the forest department as per Annexures A1 to A3 for measurement of the land in dispute. There is no much dispute that as of now the petitioners are in possession of the said land. In these circumstances I am inclined to think that custodial interrogation of the petitioners is not required and relief could be granted to them but subject to conditions so that property in dispute is not wasted or disposed of. Application is disposed of as under: (i) Petitioners shall surrender before the Officer investigating O.R. No.01 of 2013 of the Mayannur

Forest Station on 12.06.2014 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 and place as may be specified by him which the petitioners shall comply. (iii) In case arrest of the petitioners is recorded, they shall be produced before the jurisdictional magistrate the same day. B.A.No.3779 of 2014 3 (iv) On such production, the petitioners shall be released on bail, (if not required to be detained otherwise) on their executing bond for Rs.20,000/- (Rupees twenty thousand only) each with two sureties each 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 any of the petitioners. (b) Petitioners shall co-operate with investigation of the case. (c) Petitioners shall report to the officer investigating the case as and when required for interrogation. (d) Petitioners shall not dispose of, encumber or create any document with respect to the property in dispute until culmination of the proceeding or until otherwise ordered by the learned magistrate or by this Court in the pending Writ Petition. (e) Petitioners shall not cut or remove any tree from or commit other acts of waste in the said property until culmination of the proceeding or until otherwise ordered by the learned magistrate or by this Court in the pending Writ Petition. (v) It is made clear that in case any of condition Nos. B.A.No.3779 of 2014 4 (b) to (e) 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). Sd/- THOMAS P. JOSEPH, JUDGE. AS /True Copy/ P.A. to Judge

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