

Sivan Vs. State of Kerala

Sivan Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1153251

Court : Kerala

Decided On : Jun-27-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Sivan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH FRIDAY, THE 27TH DAY OF JUNE 2014 6TH ASHADHA, 1936 Bail Appl..No. 2684 of 2014 ()
----- CRIME NO. 347/2014 OF PALAKKAD TOWN SOUTH POLICE STATION , PALAKKAD PETITIONER(S)/ACCUSED: ----- 1. SIVAN, AGED 55 YEARS S/O.KITTA, KALLINGAL HOUSE, YAMUNA NAGAR THIRUVALATHUR P.O., PALAKKAD DISTRICT.

2. CHEMBAKAVALLY, AGED 43 YEARS W/O.SIVAN, KALLINGAL HOUSE, YAMUNA NAGAR THIRUVALATHUR P.O., PALAKKAD DISTRICT. BY ADV. SRI.RAJESH SIVARAMANKUTTY RESPONDENT(S)/COMPLAINANT: ----- STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR: ADV. V S SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/06-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: THOMAS P.JOSEPH, J.

Dated this the 27th day of June, 2014

ORDER

Accused Nos.1 and 2 in Crime No.347 of 2014 of the Palakkad Town South Police Station registered for the offences punishable under Secs.341, 323, 324 and 326 r/w Sec.34 of the Indian Penal Code, apprehend arrest and have filed this application.

2. Learned Public Prosecutor has opposed the application. It is submitted that on 23.02.2014 at about 11.30a.m, while the de facto complainant and another were cleaning the house, these accused assaulted the de facto complainant with stick and stone, voluntarily caused hurt/grievous hurt. The stick and stone are not recovered.

3. Learned counsel submits that the allegations are not true. The de facto complainant and others attacked the accused on 23.02.2014 at about 11a.m for which Crime No.302 of 2014 is registered by the same police for the offences punishable under Secs.447, 341, 323, 325 r/w Sec.34 of the Penal Code and in that case, final report is filed in the Judicial First Class Magistrate Court- III, Palakkad which has taken the case on file as C.C.No.786 of 2014. B.A.No.2684 of 2014 2 4. It is also pointed out that though the incident occurred within the local limits of the Palakkad Town South Police Station, the de facto complainant went to a hospital at Kozhinjapara about 40km away the next day and the case was registered by the Kozhinjapara police, later transferred to the Palakkad Town South Police. It is also submitted that if the police found the allegations in Crime No.302 of 2014 regarding the incident occurring at 11.00a.m to be true, there is no possibility of any such incident occurring at 11.30a.m as claimed in Crime No.347 of 2014.

5. In the light of the relevant circumstance, I am inclined to think that custodial interrogation of these accused is not required. Hence I am inclined to allow the request subject to conditions. But, these accused have to co-operate with the investigation of the case. The application is allowed as under: (i) Accused 1 and 2

shall surrender before the officer investigating Crime No.347 of 2014 of the Palakkad Town South Police Station on 07.07.2014 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 accused 1 and 2 on other day/days and time as may be specified by him which the accused 1 and 2 shall comply. B.A.No.2684 of 2014 3 (iii) Accused 1 and 2 shall co-operate with the investigation of the case. (iv) In case accused 1 and 2 are arrested, they shall be produced before the jurisdictional magistrate the same day. (v) On such production the accused 1 and 2 shall be released on bail (if not required to be detained otherwise) on their executing bond for `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 accused Nos.1 and 2. (b) Accused 1 and 2 shall report to the Investigating Officer as and when required for interrogation. (c) Accused 1 and 2 shall not get involved in any offence during the period of this bail. (d) Accused 1 and 2 shall not intimidate or influence the witnesses. (e) In case the accused 1 and 2 violate any of condition Nos.(b) to (d), it is open to the investigating officer to move the learned magistrate for cancellation of the bail as held in P.K Shaji Vs. State of Kerala (AIR 2006 SC100. (f) It is made clear that it is within the power of the police to B.A.No.2684 of 2014 4 question the accused and if necessary, affect recoveries even while they are on bail. Sd/- THOMAS P.JOSEPH, JUDGE. Sbna True Copy P A to Judge