

Shakeer Vs. State of Kerala

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Court : Kerala

Decided On : Jun-24-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Shakeer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH TUESDAY,THE24H DAY OF JUNE20143RD ASHADHA, 1936 Bail Appl..No. 4078 of 2014 ()
----- CRIME NO. 277/2014 OF HEMAMBIKA NAGAR POLICE STATION, PALAKKAD ----- PETITIONER/ACCUSED2TO7
----- 1. SHAKEER, AGED33YEARS, S/O JAMEELA, ILLATHU PARAMBIL, VELAMKADU, PUTHUPPARIYARAM, PALAKKAD DISTRICT-678 731.

2. FAIZAL, AGED21YEARS, S/O KABEER, ILLATHU PARAMBIL, VELAMKADU, PUTHUPPARIYARAM, PALAKKAD DISTRICT-678 731.

3. AFSAL, AGED22YEARS S/O HAMZA, THAZHE MURALI, INDUSTRIAL ESTATE, PUTHUPPARIYARAM, PALAKKAD DISTRICT-678 731.

4. FIROSE, AGED22YEARS, S/O. ABDUL RAHMAN, THAZHE MURALI, PUTHUPPARIYARAM PALAKKAD DISTRICT-678 731.

5. ANEESH, AGED20YEARS, S/O HAMEED, THAZHE MURALI, PUTHUPPARIYARAM, PALAKKAD DISTRICT-678 731.

6. SUJITH, AGED22YEARS, S/O PARVATHI, THAZHE MURALI, PUTHUPPARIYARAM, PALAKKAD DISTRICT-678 731. BY ADVS.SRI.T.B.HOOD SMT.M.ISHA RESPONDENT/STATE:

----- STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE, HEMAMBIKA NAGAR POLICE STATION, PALAKKAD-678 009 THROUGH THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, KOCHI-682 031. BY PUBLIC PROSECUTOR SRI. SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON2406-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BP THOMAS P. JOSEPH, J.

----- Bail Appl. No.4078 of 2014
----- Dated this the 24th day of June 2014

ORDER

Petitioners are accused nos.2 to 7 in Crime No.277 of 2014 of the Hemambika Nagar Police station, Palakkad for the offences punishable under Secs.143, 147, 148, 324, 326, 341 and 308 read with Sec.149 of the Indian Penal Code, apprehend arrest and have filed the application.

2. Learned Public Prosecutor has opposed the application. It is submitted that on 20.11.2013, the petitioners and others attacked the defacto complainant with iron rod. Though the offence under the SC/ST (PA) Act was initially incorporated, the same was deleted. The iron rod is not so far recovered.

3. Learned counsel submitted that though the alleged incident occurred on 20.11.2013, the defacto complainant filed a private complaint only 4 months thereafter. It is also pointed out that in the wound certificate of the defacto complainant, there is no mention Bail Appl. No.4078 of 2014 2 that any of the accused had used the iron rod.

4. I have gone through the copy of wound certificate made available to me. There, mention is about pelting of stones only. But I am not expressing any opinion on the case of the defacto complainant regarding use of iron rod. Fracture reported is of the left little finger.

5. Having regard to the relevant circumstances, I am inclined to grant relief to the petitioners but subject to conditions and protecting interest of the defacato complainant also to some extent. Application is allowed as under.

1. Petitioners shall surrender before the officer investigating Crime No.277 of 2014 of the Hemambika Nagar Police station on 03.07.2014 at 10.00 am for interrogation.

2. In case interrogation of the petitioners is not completed that day, it is open to the investigating officer to direct presence of the petitioners on any other day/days and time which Bail Appl. No.4078 of 2014 3 the petitioners shall comply.

3. Petitioners shall co-operate with the investigation of the case.

4. In case the petitioners are arrested, they shall be produced before the jurisdictional magistrate the same day.

5. On such production learned magistrate shall release the petitioners 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 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) The petitioners shall deposit Rs.3,000/- (Rupees three thousand only) in their respective names in a Nationalised / Scheduled Bank /Co- operative Society as the case may be intially for a Bail Appl. No.4078 of 2014 4 period of two years (renewable as per order of the learned Magistrate) and produce the Fixed Deposit receipts before the learned magistrate while executing the bail bonds. c) In case the case is decided against the petitioners or any of them and compensation is awarded to the defacto complainant, such compensation to the extent possible could be realised from the amount in deposit. d) Petitioners shall report to the

investigating officer on every alternate Saturday between 10.00 am and 12.00 pm for a period of two months or until filing of the final report, whichever is earlier . e) Petitioners shall report to the investigating officer as and when required for interrogation. f) Petitioners shall not get involved any offence during the period of this bail. g) Petitioners shall not influence or Bail Appl. No.4078 of 2014 5 intimidate the witnesses. h) In case any of condition nos.(d) and (g) to (g) is violated, it is open to the investigating officer to file application before the learned magistrate until committal of the case if any and thereafter before the learned Principal Sessions Judge concerned for cancellation of the bail granted hereby, as held in P.K. Shaji V. State of Kerala (AIR 2006 SC100. Sd/- THOMAS P. JOSEPH JUDGE / True Copy / NS P.A. To Judge

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