

Dineshan Vs. State of Kerala

Dineshan Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1153272

Court : Kerala

Decided On : Jun-25-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Dineshan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID WEDNESDAY, THE 25TH DAY OF JUNE 2014 4TH ASHADHA, 1936 Bail Appl..No. 4244 of 2014 () ----- CRIME NO. 613/2014 OF KALAMASSERY POLICE STATION, ERNAKULAM DISTRICT ----- PETITIONER / ACCUSED NO. 1 : ----- DINESHAN, AGED 54 YEARS S/O. JYOTHI, MULAMPURATH HOUSE, THALAIKKADU P.O., IRRUMPANNAM, ERNAKULAM. BY ADV. SRI. P. B. AJOY RESPONDENT / COMPLAINANT : ----- STATE OF KERALA REPRESENTED BY POLICE SUB INSPECTOR KALAMASSERY POLICE STATION THROUGH THE PUBLIC PROSECUTOR, ERNAKULAM. BY PUBLIC PROSECUTOR SRI. SREEJITH THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25-06-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn P. UBAID, J.

Dated this the 25th day of June, 2014

ORDER

Petitioner herein is the 1st accused in Crime No.613 of 2014 of the Kalamassery Police Station, registered under Sections 406 and 420 of the Indian Penal Code. The prosecution case is that on a false promise to arrange job the petitioner and the co-accused received an amount of Rs.50,000/- from the de facto complainant, but they failed to provide job as promised, and they did not also return the money received. On the apprehension of arrest the petitioner approached the Court of Sessions Ernakulam for anticipatory bail with CrI.M.C.No.903 of 2014. The learned Additional Sessions Judge dismissed the application on 06.06.2014. Now he is before this Court with a prayer for pre-arrest bail under Section 438 of the Code of Criminal Procedure.

2. On hearing both sides, I find that what is prominently alleged in this case is breach of an agreement or a promise to provide job. Whether such breach by itself will attract a prosecution under Section 420 of the Indian Penal Code is a matter for decision on trial. Of course the de facto B.A.No.4244 of 2014 2 complainant alleges that amount was received by the petitioner and the co-accused with some dishonest intention. It appears that he paid amount under the bona fide belief that the petitioner could arrange job somewhere as promised by him. Any way let the truth be found out by the investigating officer by thorough interrogation. When so interrogated the petitioner could explain the circumstance in which he received money from the de facto complainant, and also circumstance in which he could not act in terms of the agreement or promise to arrange job. Whether the petitioner had any dishonest intention to cheat the de facto complainant when he made promise to arrange job and received money from the de facto complainant, is a matter for decision on trial. There is nothing to show that the petitioner had received amount from anybody else on such a false promise.

3. The learned magistrate before whom application for regular bail comes will have to consider whether this is in fact only a case of breach of promise, or really a case of cheating. Petitioner will have to surrender before the Police for necessary

interrogation and after interrogation, the question of bail will be considered by the learned magistrate having jurisdiction. In the result, this application is closed with direction to B.A.No.4244 of 2014 3 the petitioner to surrender before the investigating officer for interrogation. After interrogation the petitioner shall be produced before the learned magistrate having jurisdiction on the same day by the investigating officer. If application is filed for regular bail under Section 437 of the Code of Criminal Procedure, the same shall be judiciously considered and decided on the same day, and if detention of the petitioner is not required for investigation purposes, the petitioner can be released on bail on appropriate conditions, by the learned magistrate. Sd/- P. UBAID, JUDGE. /True Copy/ P.A. to Judge AS

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com