

Benny Vs. State of Kerala

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Court : Kerala

Decided On : Jun-30-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Benny

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH MONDAY, THE 30TH DAY OF JUNE 2014 9TH ASHADHA, 1936 Bail Appl..No. 4197 of 2014 ----- CRIME NO. 572/2014 OF ERATTUPETTAH POLICE STATION , KOTTAYAM PETITIONER/IST ACCUSED: ----- BENNY, AGED 44 YEARS, S/O. ANTONY, VAZHAYIL HOUSE, BHARANANGANAM KARA, BHARANAGANAM VILLAGE, MEENACHIL TALUK, KOTTAYAM DISTRICT. BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR) RESPONDENTS/STATE AND COMPLAINANT: ----- 1. STATE OF KERALA, REP. DISTRICT GENERAL OF PROSECUTIONS, HIGH COURT OF KERALA, ERNAKULAM-682 031.

2. SUB INSPECTOR OF POLICE, ERATTUPETTAH POLICE STATION, ERATTUPETTAH P.O.-686 121. R1 & R2 BY PUBLIC PROSECUTOR SMT. LALIZA THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION

ON3006-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:
Kss THOMAS P. JOSEPH, J ----- B.A.No.4197 of 2014
----- Dated this the 30th day of June, 2014

ORDER

Petitioner is accused in Crime No. 572 of 2014 of the Erattupettah Police Station for the offences punishable under Section 395 of the Indian Penal Code, Section 17 of the Kerala Money Lenders Act, Sections 3 and 9(2) of the Prohibition of Charging Exorbitant Interest Act, apprehends arrest and has filed the application.

2. Learned Public Prosecutor has opposed the application. It is submitted that as per the version of the de facto complainant, he had borrowed Rs.1,00,000/- from the petitioner and as security, given signed blank cheque leaves, stamp papers and the R.C. book of an Innova car belonging to him. He re-paid Rs.1,35,000/- but on 20.04.2014, demanding a further sum more than of Rs.3,00,000/- the petitioner and others forcibly took the car from custody of the de facto complainant. The car is now in the custody of the petitioner and it could not so far be recovered. Though, the petitioner claim that there was a sale of the vehicle to him, whether the sale letter is forger or not is also required to be looked into. B.A.No.4197 of 2014 2 3. Learned counsel submits that the allegations are not true. According to the learned counsel, the vehicle was sold to the petitioner as per a sale letter. It is also submitted that though the alleged incident occurred on 20.04.2014, complaint was made only on 14.05.2014 which indicates unreasonableness of the allegation made by the de facto complainant.

4. I do not wish to express any opinion either way regarding the truth or otherwise of the allegation made by the de facto complainant but, the matter requires to be investigation. Vehicle allegedly seized has to be recovered and the petitioner has to be interrogated. In these circumstances request for pre-arrest bail cannot be allowed. But I am inclined to issue directions. Application is disposed of as under: (i) Petitioner shall surrender before the Officer investigating Crime No. 572 of 2014 of the Erattupettah 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 the petitioner on other day/days and time as may be specified

by him which the petitioner shall comply. B.A.No.4197 of 2014 3 (iii) In case arrest of the petitioner is recorded, he shall be produced before the jurisdictional magistrate the same day where, it is open to the petitioner to move application for regular bail with intimation given to the Assistant Public Prosecutor concerned at least two working days in advance. (iv) If custody of the petitioner is required for recovery of the vehicle, if any or for other purposes the investigating officer can move application for that purpose before the learned magistrate. (v) Learned magistrate shall consider the application(s) having regard to all relevant circumstances including whether custody of the petitioner is required for any purpose and pass appropriate orders as early as possible. Sd/- THOMAS P. JOSEPH, JUDGE. AS /True Copy/ P.A. to Judge

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