

Bachan Kumar Vs. State of Kerala

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Court : Kerala

Decided On : Jul-14-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Bachan Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH MONDAY,THE14H DAY OF JULY201423RD ASHADHA, 1936 Bail Appl..No. 5082 of 2014 ()
----- CRIME NO. 745/2014 OF ALAPPUZHA SOUTH POLICE STATION,ALAPPUZHA DISTRICT ----- PETITIONER/ACCUSED:
----- BACHAN KUMAR, AGED33YEARS, S/O.SASIKUMAR, SHEELA NIVAS, THIRUVAMPADY P.O., KUTHIRAPANTHY WARD, ALAPPUZHA. BY ADV. SRI.P.SHANES METHAR RESPONDENT :
----- STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM - 682 031. BY PUBLIC PROSECUTOR SRI.C.RASHEED THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON1407-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: sts THOMAS P.JOSEPH, J
===== B.A No.5082 of 2014 =====
Dated this the 14th day of July, 2014

ORDER

Petitioner is accused in Crime No.745 of 2014 of the Alappuzha South Police Station for the offences punishable under Secs. 420 and 506 of the Indian Penal Code, Section 17 of Kerala Money Lenders Act, 1958, Section 9(1)(a) of Kerala Prohibition of Charging Exorbitant Interest Act, 2012, apprehends arrest and has filed this application.

2. Learned Public Prosecutor has submitted that according to the de facto complainant, he had borrowed `2,00,000/- from the petitioner and given signed blank cheques , stamp papers and DPN as security. He was paying interest at the rate of `20,000/- per month. While so, the petitioner seized his car for the reason of default in payment of interest for one month. A search was B.A No.5082 of 2014 2 conducted and three vehicles including the car belonging to the de facto complainant were taken to custody.

3. Learned counsel submits that the petitioner is not engaged in money lending business. The vehicles were not seized from the custody of the petitioner. It is submitted that the petitioner had entered into an agreement with the de facto complainant on 08.11.2013 for purchase of the car belonging to the de facto complainant for `,6,50,000/-, gave `2,00,000/- by way of advance and the balance amount was paid on 13.03.2014. The de facto complainant entrusted possession of the vehicle with the petitioner. Petitioner has no claim or interest whatsoever over the two other vehicles seized. It is submitted that the petitioner is not engaged in money lending business and that nobody owes any amount to the petitioner. Petitioner is prepared to file affidavit to that effect before the learned magistrate. B.A No.5082 of 2014 3 4. In the light of the above and other relevant circumstances, I am satisfied that the custodial interrogation of the petitioner is not required. The application is allowed as under: i) Petitioner shall surrender before the officer investigating Crime No.745/2014 of Alappuzha South Police Station on 21.07.2014 at 10 a.m and on other day/days as directed by the Investigating officer for interrogation. ii) In case the petitioner is arrested, he shall be produced before the jurisdictional magistrate the same day. iii) On such production the petitioner shall be released on bail (if not required to be detained otherwise) on his executing bond for `20,000/- (Rupees Twenty Thousand Only) 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 the petitioner. B.A No.5082 of 2014 4 b) Petitioner shall file affidavit before the learned magistrate while executing the bail bond that he has no claim or interest over the vehicles seized by the police(except the one belonging to the de facto complainant regarding which the petitioner claims that he has an agreement for sale) and that nobody owes any amount to the petitioner (except the amount petitioner allegedly paid to the de facto complainant as per agreement for sale dated 08.11.2013) c) Petitioner shall report to the Investigating Officer as and when required for interrogation. d) Petitioner shall co-operate with the investigation of the case. e) Petitioner shall not engage in money lending business without obtaining permission from the appropriate authority. f) Petitioner shall not intimidate or influence the witnesses. B.A No.5082 of 2014 5 g) In case the petitioner violates any of condition Nos. (c) to (f), 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 Sd/- THOMAS P.JOSEPH, JUDGE vdv //True Copy// P.Ato Judge

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