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Ratheesh Vs. State of Kerala

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Court : Kerala

Decided On : Jul-14-2014

Judge : Honourable Mr.Justice Thomas P.Joseph

Appellant : Ratheesh

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. 5121 of 2014 () ---------- CRIME NO. 949/2014 OF KADAKKAL POLICE STATION ---------- PETITIONER(S)/ACCUSED1TO7:- ---------- 1. RATHEESH, AGED25YEARS S/O.SUGATHAN, RATHEESH BHAVAN, THALAVARAMBU MANKODU P.O., MANKODU, KOLLAM DISTRICT.

2. SHIJU, AGED26YEARS S/O.CHANDRAN, SHEENA BHAVAN, BOUNDARMUKKU CHITHARA P.O., KOTTARAKARA TALUK, KOLLAM DISTRICT.

3. SYAMJITH, AGED27YEARS S/O.CHITHARANJAN, 'SYAMALAYAM', BOUNDARMUKKU CHITHARA P.O., KOTTARAKARA TALUK, KOLLAM DISTRICT.

4. BJITH, AGED24YEARS S/O.SUGATHAN, BIJTH BHAVAN, BOUNDARMUKKU CHITHARA P.O., KOTTARAKARA TALUK, KOLLAM DISTRICT.

5. AJITH, AGED22YEARS S/O.SUGATHAN, BIJTH BHAVAN, BOUNDARMUKKU CHITHARA P.O., KOTTARAKARA TALUK, KOLLAM DISTRICT.

6. SUJITH, AGED30YEARS S/O.SUGATHAN, CHARUVILA PUTHEN VEEDU, VAZHAPPANA MANKODU P.O., KOLLAM DISTRICT.

7. VIJAYAKUMAR, AGED44YEARS S/O.GOPINATHA PILLAI, KODIVILAKATHU VEEDU BOUNDARMUKKU, CHITHARA P.O., KOTTARAKARA TALUK KOLLAM DISTRICT. BY ADV. SRI.K.V.ANIL KUMAR RESPONDENT(S)/COMPLAINANT: ---------- STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. 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: THOMAS P. JOSEPH, J.

~~~~~~~~~~~~~~~~ B.A. No.5121 of 2014 ~~~~~~~~~~~~~~~~ Dated this the 14th day of July 2014

ORDER

Petitioners are accused Nos.1 to 7 in Crime No.949 of 2014 of Kadakkal Police Station for offences punishable under Secs.341, 323, 324, 308 read with Sec.34 of IPC, apprehend arrest and have filed the application.

2. The application is opposed by the learned Public Prosecutor. It is submitted that on 29.6.2014, at the relevant time while de facto complainant, a Head Constable on deputation elsewhere was coming along the road in front of house of his friend, Rajeevan and found some commotion, the de facto complainant questioned that. Then the petitioners attacked him with stick and inflicted injury. The stick is not recovered.

3. Learned counsel submits that the allegations are not true. It is submitted that Sec.308 IPC is not attracted as the allegation is that if the de facto complainant
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had not warded off the assault, it would have caused his death.

4. Having heard both sides, I am inclined to think that B.A. No.5121 of 2014 -:

2. :- subject to seizure/recovery of the weapon allegedly used by the first petitioner, the petitioners could be granted relief, protecting interest of the de facto complainant as well. The application is allowed as under :- (i) Petitioners shall surrender before the officer investigating Crime No.949 of 2014 of Kadakkal Police Station on 21.7.2014 at 10 a.m. for interrogation. (ii) If interrogation of the petitioners is not completed that day, they shall appear before the officer investigating the case on the day/days and time as directed by him which the petitioners shall comply. (iii) In case the petitioners are arrested, they shall be produced before the jurisdictional magistrate the same day. (iv) On such production, the petitioners shall be released (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 the petitioners. B.A. No.5121 of 2014 -:

3. :- (b) Petitioners shall jointly deposit 7,000/- (Rupees Seven Thousand only) in a Nationalised/Scheduled/Co-operative Bank as the case may be for a period of two years (renewable as per order of learned magistrate) and produce F.D.Receipt before the learned magistrate while executing the bail bond. (c) In case the petitioners or any of them are/is found liable to pay compensation to the de facto complainant, such compensation to the extent possible can be realised from the amount in deposit. (d) Petitioners shall report to the officer investigating the case on every alternate Saturday between 10 a.m. and 12 p.m. until final report is filed or for two months whichever is earlier. (e) Petitioners shall report to the officer investigating the case as and when required for interrogation. (f) Petitioners shall not get involved in any offence during the period of this bail. (g) Petitioners shall not intimidate or influence the witnesses. (h) In case the petitioners violate any of conditions (d) to (g), it is open to the investigating officer to move the learned B.A. No.5121 of 2014 -:

4. :- magistrate until committal of the case if any and thereafter before the Principal Sessions Judge concerned for cancellation of the bail as held in P.K.Shaji v. State of Kerala [AIR 2006 SC100. It is made clear that in case by the time the first petitioner/first accused is produced before the learned magistrate the stick (allegedly) used by him is not seized/recovered, this order to the extent it concerns the first petitioner/first accused will cease to be effective. Thereon t is open to the first petitioner/first accused to move for regular bail before the learned magistrate which shall be dispose of as per the law, as early as possible. Sd/- THOMAS P. JOSEPH, JUDGE. //TRUE COPY// P.A. TO JUDGE Jvt

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