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Ajith Vs. the State of Kerala

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Court : Kerala

Decided On : Aug-04-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Ajith

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN MONDAY, THE4H DAY OF AUGUST201413TH SRAVANA, 1936 Crl.MC.No. 4336 of 2014 ---------- CRIME NO. 479/2014 OF CHIRAYINKEEZHU POLICE STATION, THIRUVANANDAPURAM ---------- PETITIONER/ACCUSED: ---------- AJITH, AGED35YEARS, S/O ANGJAN KOUSALIA NIVAS, VALLYAKADA CHIRAYINKEEZHU SARKARA VILLAGE, TRIVANDRUM. BY ADV. SRI.M.R.SARIN RESPONDENT(S)/STATE: ---------- 1. THE STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE, CHIRAYINKEEZU POLICE STATION, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. BY PUBLIC PROSECUTOR SMT. S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON0408-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ K.

Ramakrishnan, J.

========== Crl.M.C.No.4336 of 2014 ========== Dated this, the 04th day of August, 2014.

ORDER

This Criminal Miscellaneous Case is filed by the petitioner who is the accused in Crime No.479/2014 of Chirayinkeezhu Police Station to issue direction to the Magistrate under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code').

2. The case of the petitioner in the petition is that the petitioner is the accused in Crime No.479/2014 of Chirayinkeezhu Police Station alleging offence punishable under Section 420 of Indian Penal Code and Sections 13, 17 and 18A of Kerala Money Lenders Act 1958. The allegation in the petition is that on 31.05.2014 while de facto complainant along with the police officials had conducted raid in the rented house of the petitioner and during the raid, the raiding officer found that the petitioner had lending money to people on the basis of promissory notes and it was also found that the petitioner is lending money without obtaining licence. It is also submitted that the petitioner had filed B.A No.5272/14 for anticipatory before this honourable court which was dismissed Crl.M.C.No.4336 of 2014 :

2. : by this honourable court. Though the petitioner is ready and willing to surrender before the court below, he apprehends that, he is likely to be remanded and his bail application will not be considered on the date of filing of the application itself. So, the petitioner has no other remedy except to approach this Court seeking the following relief: "To direct the Judicial First Class Magistrate Court- I, Attingal to consider the bail application on same day that would be filed by this petitioner in Crime No 479/14 of Chirayinkeezhu police station pending before Judicial First Class Magistrate Court-I, Attingal and allow this Crl MC." 3. Considering the nature of relief claimed in the petition, this Court felt that the petition can be disposed of at the admission stage itself after hearing the Counsel for the petitioner and the learned Public Prosecutor.

4. Learned counsel for the petitioner submitted that his only apprehension is that if the petitioner surrenders before the court below, his bail application will not be considered on the same day and he will be remanded to custody.

5. The petition was opposed by the Public Prosecutor on the ground that the petitioner was absconding. Crl.M.C.No.4336 of 2014 :

3. :

6. It is an admitted fact that the petitioner is the accused in Crime No.479/2014 of Chirayinkeezhu Police Station alleging offence punishable under Section 420 of Indian Penal Code and Sections 13, 17 and 18A of Kerala Money Lenders Act 1958. The apprehension of the petitioner that, if he surrenders before the court below and moves for bail, he will be remanded and his application will not be considered on the date of filing itself is not genuine and without any basis. This Court has time and again observed in several petitions of this nature that the Presiding Officers of the criminal courts are duty bound to dispose of the bail applications, if any, filed by the accused persons on their surrender on the date of filing of the application itself unless compelling circumstances warrant postponement of the same to a future date. So, in fact, there is no necessity to issue any direction as sought for in the petition. However, considering the apprehension expressed in the petition, this Court feels that the petition can be disposed of as follows: If the petitioner surrenders before the Judicial First Class Magistrate Court No-I, Attingal and moves for releasing him on bail in Crime No.479/2014 of Chirayinkeezhu Police Station now pending before that Crl.M.C.No.4336 of 2014 :

4. : court, then, the learned Magistrate is directed to consider and dispose of the bail application after hearing the Assistant Public Prosecutor of that court in accordance with law as far as possible on the date of filing of the application itself. With the above direction and observation, the petition is disposed of. Office is directed to communicate this order to the concerned court immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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