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

Prince Vs. State of Kerala

Prince Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1160761

Court : Kerala

Decided On : Aug-06-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Prince

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN WEDNESDAY, THE6H DAY OF AUGUST201415TH SRAVANA, 1936 Crl.MC.No. 4303 of 2014 ---------- SC NO.285/2013 OF SESSIONS COURT (SPECIAL COURT) ERNAKULAM CRIME NO.10/2013 OF MARADU POLICE STATION ..... PETITIONERS/ACCUSED1& 2: ---------- 1. PRINCE, AGED30YEARS, S/O.GEORGE JOSEPH, VALIYAVEETTIL HOUSE, THYKOODAM, VYTTILA.

2. VIJITHA, W/O.PRINCE, VALIYAVEETTIL HOUSE, THYKOODAM, VYTTILA. BY ADVS.SRI.SAM ISAAC POTHIYIL SRI.A.S.SREEJAN RESPONDENT: ---------- STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.P.MAYA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON0608-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss K. Ramakrishnan, J.

========== Crl.M.C.No.4303 of 2014 ========== Dated this, the 06th day of August, 2014.

ORDER

This is an application filed by the petitioners who are accused Nos.1 & 2 in S.C.No.285/2013 on the file of Sessions Court (Special Court), Ernakulam, to issue a direction to the Sessions Judge to consider and dispose of the bail application under Section 482 of Code of Criminal Procedure.

2. It is alleged in the petition that petitioners are husband and wife and they are arrayed as accused Nos.1 & 2 in S.C.No.285/2013 pending before Sessions Court (Special Court for trial of cases relating to atrocities on Women and Children), Ernakulam. The second petitioner was carrying at that time and gave birth to a child on 29.06.2014. During the period of pregnancy, there was some complications and she required constant attention. So, both of them could not appear before the court below and take bail. Now, non bailable warrant has been issued against them. Though they are prepared to surrender, they are likely to be remanded without considering the bail application. Further, the second petitioner is not in a position to appear immediately and she requires Crl.M.C.No.4303 of 2014 :

2. : some breathing time for that purpose. So, the petitioners have no other remedy except to approach this Court seeking the following relief: "To recall the Non Bailable Warrant issued against the petitioners in S.C.No.285 of 2013 on the files of the Court of Sessions (Special Court), Ernakulam, so as to secure the ends of justice." 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 petitioners and the learned Public Prosecutor.

4. The Counsel for the petitioners submitted that the first petitioner is prepared to surrender and he wants some time for second petitioner to surrender, because, she will have to breast feed the newly born child. Further, unless a direction is given, the learned Sessions Judge will not consider the bail application on the same day and he they will be remanded.

5. The application was opposed by the Public Prosecutor.

6. It is an admitted fact that the petitioners were arrayed as accused Nos. 1 & 2 in S.C.No.285/2013 pending before Sessions Court (Special Court for trial of cases relating Crl.M.C.No.4303 of 2014 :

3. : to atrocities on Women and Children), Ernakulam and since they did not appear, non-bailable warrants have been issued against them and it is pending. It is alleged in the petition that they are husband and wife and second petitioner had given birth to a boy child on 29.06.2014 and she is not able to move immediately. The apprehension of the petitioners that, if they surrender, their bail application will not be considered and they will be remanded to custody is without any basis and not genuine as 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 such. Further, as far as the second petitioner is concerned, considering the peculiar circumstances, this court feels that some time can be given to the second petitioner to appear. But, first petitioner has to appear immediately. So, considering the apprehension raised in the petition, this court feels that the petition can be disposed of as follows: Crl.M.C.No.4303 of 2014 :

4. : If the petitioners surrender before the Sessions Court (Special Court for trial of cases relating to atrocities on Women and Children), Ernakulam in S.C.No.285/2013 pending before that court and move for recalling the warrant and release them on bail, then, the learned Sessions Judge is directed to consider and dispose of the bail applications on the same date after hearing the Additional Public Prosecutor of that court in accordance with law. But, the second petitioner is directed to surrender within 15 days from today and till then, the coercive steps initiated against her is directed to be kept in abeyance. If she did not appear, then, the Sessions Judge is at liberty to proceed against her in accordance with law to procure presence. 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

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