

Valsan Vs. State of Kerala

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Court : Kerala

Decided On : Sep-25-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Valsan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 25^H DAY OF SEPTEMBER 2014 3RD ASWINA, 1936 CrI.MC.No. 5424 of 2014 ()
----- AGAINST THE

ORDER

IN SC4512011 of II ADDL. SESSIONS COURT (VACATION COURT), ERNAKULAM PETITIONER(S)/ACCUSED NO.18:
----- VALSAN AGED 46 YEARS S/O. PEGAN, MARAKODAN HOUSE, MOONOORPILLY KARA KARUKUTTY VILLAGE, ALUVA THALUK, ERNAKULAM DISTRICT. BY ADVS. SRI. S. RENJITH SRI. S. UNNIKRISHNAN (NELLAD) RESPONDENT(S): ----- STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM 6820 31. R BY PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25-09-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 5424 of 2014 ()

ORDER

DATED 16.05.2014 IN CRL.MP NO.1093 OF 2014 IN L.P.NO.13 OF 2013 IN S.C.NO.451 OF 2011 OF ADDITIONAL SESSIONS JUDGE (VACATION COURT), ERNAKULAM. RESPONDENT(S)' EXHIBITS -----
/TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ Crl.M.C No.5424 of 2014 ~~~~~ Dated this the 25th  
September, 2014

ORDER

The petitioner herein is the accused No.18 in Crime No.614 of 2003 of Kalady Police Station. The case is now pending as SC451 of 2011. The case happened to be transferred to the register of long pending cases when he absconded from trial process. Anyway, on 16.5.2014, he was granted bail by the learned IInd Additional Sessions Judge (Vacation Judge), Ernakulam on certain conditions. Annexure-A1 is the said order granting bail to the petitioner. He is required to execute a bond with two solvent sureties for 1 lakh each as a condition for bail, and there is a further condition that the sureties shall produce their original title deeds in court, to prove their solvency.

2. The grievance of the petitioner is that, he still continues in jail and he is not in a position to execute bond as ordered by the court, because one of the sureties is not Crl.M.C No.5424 of 2014 2 in a position to produce the original title deed of his property. The learned counsel submits that one surety can produce the title deed, but the other has deposited the title deed with the bank in a loan transaction .

3. In Asokan v. C.I. of Police [2010(1)KLT18, this Court has held that while granting bail, production of original title deed of sureties cannot be indiscretely insisted. Production of title deeds ordered by the court is only to verify the solvency of the sureties. If solvency of the sureties can otherwise be verified by the court, production of title deed as such cannot be insisted. In the present

circumstances where the petitioner has not been able to execute bond and he continues in jail for months, I feel the absolute necessity of interference in the said condition imposed by the court. If one of the sureties can produce title deed, and the other is not able to produce the title deed, in the special circumstances, a certificate issued from the Bank can well be produced along with the tax receipt showing the payment of land revenue. Crl.M.C No.5424 of 2014 3 In the result, this Crl.M.C is allowed. The condition imposed by the court below that the sureties shall produce the original title deed will stand modified to the effect, that if any of the sureties is not able to produce the title deed because it is deposited with the bank in loan transaction, he can very well produce a certificate from the Bank and can also produce tax receipt to prove solvency. Such document shall be accepted by the court below, and the petitioner shall be released, without any delay. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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