

Salim Vs. State of Kerala

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Court : Kerala

Decided On : Oct-08-2014

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : Salim

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS WEDNESDAY, THE 8TH DAY OF OCTOBER 2014 16TH ASWINA, 1936 Bail Appl..No. 7175 of 2014 ()
----- AGAINST THE

ORDER

/

JUDGMENT

IN CRMP29102014 of D.C & SESSIONS COURT, PALAKKAD CRIME NO. 686/2014 OF ALATHUR POLICE STATION , PALAKKAD APPLICANTS/ACCUSED NOS.1, 3 & 4:
----- 1. SALIM AGED 53 YEARS
S/O.MUSTHAFA, MALIKAPARAMBIL (H), MAIN ROAD ALATHUR, PALAKKAD.

2. SAFIYA AGED 43 YEARS W/O.SALIM, MALIKAPARAMBIL (H), MAIN ROAD ALATHUR, PALAKKAD.

3. BADARUNNEESSA AGED 49 YEARS W/O. HAMEED, MALIKAPARAMBIL (H),
MAIN ROAD ALATHUR, PALAKKAD. BY ADV. SRI.V.A.JOHNSON
(VARIKKAPPALLIL) RESPONDENT(S)/COMPLAINANT:

----- STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC
PROSECUTOR SRI.DHANESH MATHEW MANJOORAN THIS BAIL
APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2014, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING: ALEXANDER
THOMAS, J.

===== B.A.No. 7175 of 2014 ===== Dated this
the 8th day of August, 2014

ORDER

The petitioners herein are accused Nos.1, 3 and 4 in crime No.686/2014 of Alathur Police Station for offences under Sections 341, 323, 29 (b) and 506 (i) read with Section 34 IPC and Section 31 of the Protection of Women from Domestic Violence Act, 2005. The case of the prosecution is that the accused, who are in-laws of the defacto complainant (lady), had violated the order passed by the Judicial First Class Magistrate's Court, Alathur in C.M.P.No.5759/ 2013 in M.C.No.232/2013 and had manhandled and forcibly kept the defacto complainant out of the petition schedule property and locked the said house. The learned counsel for the petitioners would submit that the petitioners have not committed any of the offences alleged against them and that it is the defacto complainant, who attacked the petitioners, in which, they sustained injury and in these facts and circumstances, they apprehend imminent arrest. The learned counsel for the petitioners would submit that the only non- B.A.7175/14 - :

2. :- bailable offence alleged as against the petitioners in the aforementioned crime is one under Sec. 31 of the Protection of Women from Domestic Violence Act, 2005 and that all the other offences are bailable offences.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the respondent.

3. After hearing the submissions of the learned counsel for the petitioners and the learned Public Prosecutor and after taking into consideration the totality of the facts and circumstances of the case, I am inclined to hold that anticipatory bail in this case can be granted to the petitioners subject to incorporation of sufficient conditions in order to protect the interest of the prosecution. Accordingly, it is ordered that in the event of the petitioners being arrested, they shall be released on bail on their executing bond for Rs. 35,000/- (rupees thirty five thousand only) each and furnishing two solvent sureties each for the like amount to the satisfaction of the investigating officer in the above crime and subject to the following conditions: (i) The petitioners shall surrender their passports, if any, before the jurisdictional Magistrate concerned within 3 days from the execution of the bail bond before the Investigating Officer B.A.7175/14 - :

3. :- and if either of them are not holders of passports, then they shall file affidavit to that effect in the said court. If the petitioners require their passports in connection with their travel abroad, then they are free to approach the court concerned for the release of the same and for necessary permission in that regard. In case such an application is filed, the trial court or the jurisdictional Magistrate concerned, as the case may be, is free to consider the same on merits and to pass appropriate orders thereon, taking necessary guidance from the principles laid down in the decision of this Court in the case Asok Kumar v. State of Kerala, reported in 2009 (2) KLT712 notwithstanding the aforementioned conditions imposed by this Court. (ii) The petitioners shall report before the Investigating Officer in the above said crime between 10 a.m. and 11 a.m. on every alternate Sundays till the filing of the final report. (iii) The petitioners shall not involve in any criminal offence of similar or graver in nature. (iv) The petitioners shall co-operate with the investigation and report before the investigating officer as and when required by him. (v) The petitioners shall not influence the witnesses or shall not tamper or attempt to tamper evidence in any manner whatsoever. (vi) The petitioners shall not in any way violate the conditions of the orders passed under the provisions of the Protection of Women from Domestic Violence Act, 2005, so long as such B.A.7175/14 - :

4. :- orders are in force and have not been interdicted by higher forum. If the petitioners violate any of the conditions as ordered above, then the bail granted to them is liable to be cancelled. With the above directions, this application for anticipatory bail stands disposed of. Sd/- sdk+ ALEXANDER THOMAS, JUDGE
///True copy/// P.S. to Judge

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