

Kiran Mon vs State of Kerala

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Court : Kerala

Decided On : Mar-14-2024

Judge : Honourable Mrs. Justice Sophy Thomas

Appeal No. : Crl.MC/1561/2024

Appellant : Kiran Mon

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
THURSDAY, THE 14TH DAY OF MARCH 2024 / 24TH PHALGUNA,
1945 CRL.MC NO. 1561 OF 2024 CRIME NO.759/2020 OF Ramankary
Police Station, Alappuzha AGAINST THE ORDER/JUDGMENT IN CC
NO.421 OF 2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,
RAMANKARI PETITIONERS/ACCUSED NOS.2,12,23 AND 24:

1 KIRAN MON AGED 19 YEARS S/O. KARTHIKEYAN, KARIYATHARA
HOUSE, WARD NO. 1, RAMANKARY PANCHAYATH, MANALADI
MURI, RAMANKARY VILLAGE, ALAPPUZHA., PIN - 689595 2 SHYJU
@ KUTTAI AGED 38 YEARS S/O. XAVIER, MADATHIL PARAMBU

LAKSHAMVEEDU COLONY, WARD 3 THANKAMMA JOHN AGED 60 YEARS W/O. JOHN, MADATHIL PARAMBU LAKSHAMVEEDU COLONY, WARD 4 KUNJUMOL AGED 49 YEARS W/O. SUNIL, MADATHIL PARAMBU LAKSHAMVEEDU COLONY, WARD BY ADVS. B.PRAMOD BIJU VIGNESWAR ATHUL M.V.

RESPONDENTS/STATE: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 PP-SRI.PRASANTH M.P THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14.03.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO.1561 OF 2024 2

ORDER

This Crl.M.C is at the instance of accused Nos.2, 12, 23 and 24, for a direction to Judicial First Class Magistrate Court, Ramankary to grant bail to them in the event of their appearance in CC 421/2023, without insisting deposit of any amount.

2. The petitioners stand charge sheeted under Sections

120B, 143, 147, 148, 294(b), 506(ii), 447, 341, 323, 354, 427 and 324 read with Section 149 of IPC and Section 4 of Kerala Prevention of Damage to Private Property and Payment of Compensation Act, 2019 (for short, the Act) along with 24 other accused persons.

2. Learned counsel for the petitioners would submit that, in

fact, Section 4 of the Act is not a penal provision, and the penal provision is Section 5 of the said Act. As per Section 8 of the said Act, no person accused under Section 5 or Section 6 shall be released on bail on execution of bond by two sureties, and depositing in the court the amount not less than one half of the CRL.MC NO.1561 OF 2024 3 value of the property destroyed or damaged as may be determined by the court on the basis of police report or on furnishing bank guarantee for the said amount, unless the prosecution has been given an opportunity to oppose the application for such release. The anticipatory bail application filed by the petitioners before the Sessions Court, Alappuzha was

dismissed as per Annexure A12 order. The petitioners have received summons from learned magistrate court to appear before that court in CC 421/2023. Now their apprehension is that, if learned magistrate is imposing a condition to deposit one half of the value of the property destroyed or damaged, they may not be in a position to comply with that direction, and so learned magistrate has to be directed to release them on bail without any conditions for deposit of amount.

3. When the statute provides for depositing the amount not

less than one half of the value of property destroyed or damaged, as a condition for granting bail this court cannot direct the learned magistrate to release the petitioners on bail, without any such conditions. The petitioners can appear before learned magistrate as per summons, and if they file an CRL.MC NO.1561 OF 2024 4 application for regular bail, learned magistrate has to pass appropriate orders on merit.

4. Learned counsel for the petitioners would submit that,

the provisions of the said Act is not applicable in the case on hand. Learned magistrate has to hear the parties, to decide as to whether the said Act is applicable to the case, so as to impose the conditions as envisaged under Section 8 of the said Act. With these directions, this CrI.M.C is disposed of. Sd/- SOPHY THOMAS JUDGE ska CRL.MC NO.1561 OF 2024 5 APPENDIX OF CRL.MC 1561/2024 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE FINAL REPORT DATED 25.08.2021 SUBMITTED IN CRIME NO. 759/2020 OF RAMANKARY POLICE STATION, ALAPPUZHA DISTRICT. Annexure A2 TRUE COPY OF THE FIR IN CRIME NO. 759/2020 DATED 12.12.2020 OF RAMANKARY POLICE STATION, ALAPPUZHA DISTRICT. Annexure A3 TRUE COPY OF THE FIS IN CRIME NO. 759/2020 OF RAMANKARY POLICE STATION, ALAPPUZHA DISTRICT. Annexure A4 TRUE COPY OF THE RTI REPLY DATED 15.11.2021 ISSUED BY THE OF THE SECRETARY OF THE RAMANKARY GRAMA PANCHAYATH. Annexure A5 TRUE COPY OF THE REPLY DATED NIL ISSUED BY THE ASSISTANT ENGINEER LID & EVW SECTION UNDER THE RTI ACT. Annexure A6 TRUE COPY OF THE ROUGH SKETCH PREPARED BY THE VILLAGE OFFICER, RAMANKARY VILLAGE

SHOWING THE LIE AND NATURE OF THE ROAD IN QUESTION.

Annexure A7 TRUE COPY OF THE LAND RELINQUISHMENT FORM RELINQUISHMENT ACT. Annexure A8 TRUE COPY OF THE LAND RELINQUISHMENT FORM DATED 07.04.1998 SUBMITTED SATHEESH UNDER THE KERALA LAND RELINQUISHMENT ACT. Annexure A9 TRUE COPY OF THE NOTICE DATED 07.08.2009 ISSUED RAMANKARY GRAMA PANCHAYATH TO THE DE FACTO COMPLAINANT. Annexure A10 TRUE COPY OF THE ORDER DATED 02.02.2021 IN B.

A. NO. 266/2021 OF THIS HON'BLE COURT GRANTING ANTICIPATORY BAIL TO ACCUSED NOS. 4, 18, 25 IN CRIME NO. 759 OF 2020 OF RAMANKARY POLICE STATION.

Annexure A11 TRUE COPY OF THE ORDER DATED 02.02.2021 IN B. A. NO. 585/2021 OF THIS HON'BLE COURT GRANTING ANTICIPATORY BAIL TO ACCUSED NOS. 1, CRL.MC NO.1561 OF 2024 6 8, 13, 14, IN CRIME NO. 759 OF 2020 OF RAMANKARY POLICE STATION. Annexure A12 TRUE COPY OF THE ORDER DATED 25.01.2024 IN CRL. M. P. NO. 207/2024 OF THE HON'BLE SESSIONS COURT, ALAPPUZHA.

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