

Johnson Abraham vs State of Kerala

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : CRL.A/722/2023

Appellant : Johnson Abraham

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN
WEDNESDAY, THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945
CRL.A NO. 722 OF 2023 AGAINST THE ORDER/JUDGMENT in CRMC
840/2023 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT -
VI, THIRUVANANTHAPURAM / III ADDITIONAL MACT
APPELLANT/PETITIONER/ACCUSED: JOHNSON ABRAHAM, AGED
57 YEARS, S/O ABRAHAM, PLATHOTTAM, KALLUKUNNU,
KATTAIKONAM P.O., THIRUVANANTHAPURAM, PIN - 695584 BY
ADV LATHEESH SEBASTIAN
RESPONDENT/RESPONDENTS/STATE&DEFACTO COMPLAINANT: 1
STATE OF KERALA, REPRESENTED BY PUBLIC

PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 STATION
HOUSE OFFICER, POTHENCODE POLICE STATION,
THIRUVANANTHAPURAM DISTRICT, PIN - 695033 3 SHIBU, AGED 46
YEARS S/O GOPALAN, KALLUKUNNU, AYIROOPPARA,
THIRUVANANTHAPURAM, PIN - 695584 OTHER PRESENT:
SR.PP.RENJITH GEORGE THIS CRIMINAL APPEAL HAVING COME
UP FOR ADMISSION ON 31.05.2023, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

Dated this the 31st day of May, 2023 The appellant is the accused in Crime No. Station alleging commission of offences under Sections 323, 324 and 506 of IPC r/w 3(1)(r) and 3(1)(s) of SC/ST (Prevention of Atrocities) Act 1989 ('the Act' for short). The crime is registered on the basis of a private complaint

filed by the 3rd respondent before the Magistrate Court at

respondent has alleged that, at about of 03:00 PM

on 28.12.2022, while he came out of his house

house, the appellant abused him by calling his caste name and intimidated him by brandishing a garden spade. The appellant's application for -3- anticipatory bail was rejected by the Sessions Court, in view of the prohibition contained under Section 18 A of the Act.

2. Learned counsel for the appellant contended that the allegation is patently false, which would be evident from the fact that with

respect to an incident that had allegedly occurred on 28.10.2022, the FIR was registered only on 01.03.2023. In the meanwhile Annexure 2 Crime was registered against the third respondent and others for various offences, including the

offence under Section 307 of I

the SC/ST(PoA) Act were also included.

3. The 3rd respondent has not appeared, despite service of notice through the -4- investigating officer.

4. The case dairy made available by the Public Prosecutor shows that the crime was registered based on a complaint filed before the Magistrate Court on 31.01.2023. It is specifically

stated in the complaint that the

28.12.2022, with respect to an incident that had occurred on 28.10.2022. Surprisingly, even after two months of the incident, the doctor has noted aberrations on the appellant's elbow and contusion over his cheek. The certificate by itself raises a doubt about the veracity of the allegations. The fact that the 3rd respondent had filed the complaint only after Annexure 2 crime

was registered against him on 03.0

-5- more as a counter blast to the crime registered against the third respondent. Being so, I find the appellant to be entitled for per-arrest bail, in spite of the prohibition contained under Section 18A of the Act. In the result, the criminal appeal is allowed and the investigating officer in Crime No.369/2023 of Pothencode Police Station is directed to release the appellant on bail in the event of his arrest, on the appellant executing a bond for Rs.25,000/- (Rupees Twenty Five thousand

only) with two solvent sureties for the

every month for three months or till the final report is filed, whichever is earlier.
Sd/- V.G.ARUN JUDGE Scl/ -6-

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