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Hajara Vs. State of Kerala

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Court : Kerala

Decided On : Dec-26-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Hajara

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE26H DAY OF DECEMBER20145TH POUSHA, 1936 Bail Appl..No. 8956 of 2014 () ---------- CRIME NO. 608/2013 OF KALIYAR POLICE STATION , IDUKKI DISTRICT ---------- PETITIONER(S)/ACCUSED NO. 1 & 2: ---------- 1. HAJARA MUHAMMED, W/O.MUHAMMED, AGED45YEARS, EDATHADETHIL HOUSE, WEST KODIKKULAM P.O., THODUPUZHA, IDUKKI DISTRICT.

2. MUHAMMED E.M.S, S/O. MEERAKUTTY, AGED48YEARS, EDATHADETHIL HOUSE, WEST KODIKKULAM P.O., THODUPUZHA, IDUKKI DISTRICT. BY ADVS.SRI.M.B.SANDEEP SMT.R.PRIYA SRI.V.VISAL AJAYAN SRI.B.SURJITH SRI.ABHILASH JOSE SRI.M.A.AHAMMAD SAHEER SMT.B.DHANYA SMT.R.ANJANA RESPONDENT/COMPLAINANT: ---------- STATE OF KERALA, REPRESENTED BY SUB INSPECTOR, KALIYAR POLICE STATION, IDUKKI, BY PUBLIC

PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031. BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON2612-2014,ALONG WITH BA.NO.8957/2014 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: sts K. RAMAKRISHNAN, J.

---------- B.A.Nos.8956, 8957, 8958, 8959, 8960, 8966 & 8985 of 2014 ---------- Dated this the 26th day of December, 2014

ORDER

These applications were filed by the petitioners who are accused numbers 1 and 2 in Crime Nos. 608/2013, 643/2013, 615/2013, 637/2013, 621/2013, 610/2013, 641/2013 of all of Kaliyar Police Station of Idukki District for anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The case of the prosecution in all these cases was that, the present petitioners have induced several persons to make deposit in the society by name Rajyasree Bharath Poura Karthavya Nirvahana Sahaya Samithy of which third accused was the President and thereafter, several persons including the complainants in these cases deposited the amount, but, the same was not paid and thereby, all of them have committed the offence punishable under Section 420 read with Section 34 of Indian Penal Code.

3. The counsel for the petitioners submitted that, the first petitioner had filed a pre litigation petition before Kerala State Legal Services Authority, Ernakulam against the third B.A.Nos.8956 & connected cases :

2. : accused in these cases and in the Adalath conducted, the third accused had agreed to pay the amount of Rs.10,33,500/- with 9% interest to the first petitioner herein and on getting the amount, she can disburse the amount to the persons from whom the deposits were collected and since he did not pay the amount, she filed execution petition before the Sub Court, Kattappana as E.P.No.27/2014 and that was pending. Now, in order to pressurize the petitioners to pay the amount,

the de facto complainants have filed private complaints before the Magistrate Court which were forwarded to the police and the above crimes were registered. So, they prayed for allowing the application.

4. The application was opposed by the Public Prosecutor on the ground that they were accused in several cases of this nature.

5. It is seen from the documents produced by the petitioners and also the report of the investigating officer in all these cases that third accused as President was conducting a society by name Rajyasree Bharath Poura Karthavya Nirvahana Sahaya Samithy and the petitioners were acting as promoters of that society and as requested by them, several persons B.A.Nos.8956 & connected cases :

3. : including the complainants in these cases made deposits with the society but, the amount was not paid. So, they filed private complaints before the concerned magistrate court against all the three accused persons including the present petitioners and the same were forwarded to the police for investigation under Section 156(3) of Code of Criminal Procedure and on that basis, the above crimes were registered against the petitioners and the third accused alleging offence under Section 420 read with Section 34 of Indian Penal Code. It is also seen from the documents produced by the petitioners in all these cases that first petitioner had filed a pre litigation petition before the Kerala State Legal Services Authority alleging that the third accused has collected amounts from several persons and he did not pay the amount and they were harassing the petitioners and on that basis, Adalath was conducted and in the Adalath, Annexure A1 award was passed in which, the third accused herein who was the respondent in the case had undertaken to pay the amount of Rs.10,33,500/ which was due to the petitioners as well as and others which was collected and deposited through the petitioners also with 9% interest from 30.11.2013 and the amount will have to be B.A.Nos.8956 & connected cases :

4. : paid on or before 31.03.2014 to the first petitioner so that she can disburse the amount to the several depositors from whom the amounts were collected and deposited with the society. It is also seen from Annexure A2 that since the respondents in the award did not pay the amount, she filed E.P.No.27/2014 before

the Sub Court, Kattappana for execution of the award and that is pending. So, considering the circumstances, this court feels that custodial interrogation of the petitioners is not required and granting anticipatory bail to them will not affect the progress of investigation as well. So, considering these aspects, this court feels that pre arrest bail can be granted to the petitioners in the above crimes with following conditions: i. If the petitioners were arrested in connection with the above mentioned crimes, then, the respondent/investigating officer/Station House Officer as the case may be is directed to release them on bail on executing a bond for Rs.25,000/- each in each crime with two solvent sureties for the like sum each to the satisfaction of the arresting officer/respondent/investigating officer as the case may be and ii) The petitioners shall appear before the investigating B.A.Nos.8956 & connected cases :

5. : officer for the purpose of interrogation in connection with the above crimes for two consecutive days between 9.00 a.m and 12.00 noon immediately after such arrest and release and thereafter as when required by him for this purpose in writing to do so till the final report is filed. iii. The petitioners shall not intimidate or influence the witnesses. iv. The petitioners shall not leave State of Kerala without getting prior permission from the concerned magistrate court in which the case is now pending till the disposal of the case. v. If the petitioners surrender before the concerned magistrate court and move for regular bail in the above crimes, then, the learned magistrate is directed to release them on bail on the same conditions as stated above in all the above crimes. With the above directions and observations, the petitions are allowed. Sd/- K. Ramakrishnan, Judge Bb [True copy] P.A to Judge

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