

James Mathew Vs. State of Kerala

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Court : Kerala

Decided On : Mar-06-2015

Judge : Honourable Mr. Justice B.Kemal Pasha

Appellant : James Mathew

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE B.KEMAL PASHA FRIDAY, THE 6TH DAY OF MARCH 2015 15TH PHALGUNA, 1936 Bail Appl..No. 1197 of 2015 ()
----- CRIME NO. 958/2014 OF SREEKANDAPURAM POLICE STATION, KANNUR ----- PETITIONER/2ND ACCUSED :
----- JAMES MATHEW AGED 53 YEARS, S/O. N.J.

MATHEW NEERACKAL HOUSE, PUZHATHI AMSOM DESOM PALLIKKUNNU P.O., KANNUR DISTRICT. BY SENIOR ADVOCATE SRI.M.K.DAMODARAN BY ADVS.SRI.A.ARUNKUMAR SRI.M.SASINDRAN
RESPONDENTS/COMPLAINANT & STATE :
----- 1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA ERNAKULAM - 682 031.

2. THE STATION HOUSE OFFICER (CRIME NO. 958 OF 2014 OF SREEKANDAPURAM POLICE STATION) KANNUR DISTRICT - 670 631. R1 & R2 BY DIRECTOR GENERAL OF PROSECUTION SRI. T. ASIF ALI THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/03/2015, ALONG WITH BA NO. 1255/2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn B.KEMAL PASHA, J.

===== B.A. Nos. 1197 & 1255 of 2015
===== Dated this the 6th day of March, 2015

ORDER

Petitions under Section 439 Cr.P.C.

2. Petitioner in B.A. No.1255/2015 is the 1st accused and the petitioner in B.A.No.1197/2015 is the 2nd accused in Crime No.958/2014 of Sreekandapuram Police Station, Kannur district, pending investigation for the offence punishable under Section 306 IPC.

3. Initially, Crime No.958/2014 was registered under Section 57 of the Kerala Police Act on 15.12.2014 for man missing as Sasidharan, who was the Head Master of a reputed Higher Secondary School at Taliparamba named Tagore Vidyaniketan Higher Secondary School, was found missing. On 15.12.2014 at 5 p.m., he was found dead as hanged in the bathroom attached to room No.107 of Taj Mahal Lodge near the bus stand at Kasba, Kasaragod. Inquest was conducted.

4. In the inquest, two suicide notes were traced out from B.A. Nos. 1197 & 1255 of 2015 2 the underwear worn by the deceased. One was addressed to the 2nd accused, even though in the caption, it was stated that it should be given to Mathrubhoomi, Kannur edition. The other letter was addressed to the 1st accused even though in the caption, it was stated that it has to be given to the Mathrubhoomi, Kannur edition.

5. In the letter addressed to the 1st accused, the gist of the contents reveal that the deceased had pointed out the mistakes that were being committed by the 1st

accused, who was his subordinate, and instead of correcting those mistakes, the 1st accused had acted against the deceased with a view to trapping him in false case. It was also mentioned therein that the attempt on the part of the 1st accused was nothing but to bring one Kamalakshan, who is the close associate of the 1st accused, as the successor in office to the deceased. It also reveals that there was a staff meeting, and the 1st accused had severely criticised the deceased, and nobody had supported the 1st accused in the said staff meeting. Further, it was written that B.A. Nos. 1197 & 1255 of 2015 3 the 1st accused was instrumental in his suicide.

6. In the letter addressed to the 2nd accused, the deceased has stated that he is the first martyr of "Samagra Vidyabiasa Vikasitha Paripadi" mooted by the 2nd accused in Taliparamba Assembly Constituency. It clearly reveals that over the phone, the 2nd accused had threatened and intimidated the deceased. It further gives an indication that the 2nd accused had taken the words and versions of the 1st accused as granted, and intimidated the deceased without making any enquiry and without hearing other staff members of the school regarding the incident. In the letter, he has complained that the 2nd accused ought to have enquired about the matter to the other 46 teachers of the school and he was confident that, except the 1st accused and two other teachers, all would have supported the deceased. Further, he had stated that the 2nd accused ought to have enquired about the track records of the 1st accused in the school. He has further complained that, on a proper enquiry, had it been conducted by the 2nd accused prior to the B.A. Nos. 1197 & 1255 of 2015 4 intimidation, the 2nd accused ought not to have implicated him in a case by intimidating him. He has concluded in the letter that only because of that, he has no other go than to end his life and, therefore, he is committing suicide. In both the letters, he has expressed that the curse of his children and his wife would hover around the 1st accused and the 2nd accused, as the deceased had to commit suicide because of their actions.

7. The petitioners had earlier approached this Court seeking anticipatory bail through B.A.No.515/2015 and 534/2015 respectively and the same were dismissed by this Court by order dated 13.02.2015. Thereafter, the 1st accused was arrested on 17.2.2015 and the 2nd accused has surrendered on 27.02.2015

and thereafter, they have been in custody.

8. Heard learned Senior Counsel Sri.M.K.Damodaran for the 2nd accused, Sri.P.Narayanan for the 1st accused and Sri.Asif Ali, the learned Director General of Prosecutions.

9. It seems that the investigation of this case is in progress. Considering the present stage of the investigation, B.A. Nos. 1197 & 1255 of 2015 5 and the facts and circumstances of this case, I do not think that the continued detention of the petitioners in custody is required for the continued investigation of the case. At the same time, the learned DGP has pointed out that there is an apprehension in the mind of the family of the deceased with regard to the possible interference from the 1st accused. Considering the facts and circumstances of this case, I am of the view that both the petitioners can be enlarged on bail, on conditions.

10. In the result, these Bail Applications are allowed and the petitioners shall be enlarged on bail on each of them executing a bond for 1,00,000/-(Rupees one lakh only) with two solvent sureties for the like sum each to the satisfaction of the concerned Judicial First Class Magistrate's Court, and subject to the following terms and conditions:- (i) The petitioners shall report before the Investigating Officer in between 9 am and 11 am on all Fridays and Tuesdays, commencing from 13.03.2015 for a period of three months or till the filing of the final report in this case, whichever is earlier. B.A. Nos. 1197 & 1255 of 2015 6 (ii) Except for complying with condition No.(i), the petitioner in Bail Application No.1255/2015 shall not enter Chuzhali village for a period of six months. (iii) The petitioners shall not contact the family members of the deceased or make any attempt for the same either directly or indirectly. (iv) The petitioners shall not tamper with the evidence or influence witnesses. (v) The petitioners shall make themselves available for interrogation as and when required by the Investigating Officer. (vi) The Petitioners shall not involve in any offence while on bail. It is made clear that the violation of any of the conditions stipulated above will result in the cancellation of bail. Sd/-
B.KEMAL PASHA, JUDGE stu