

Jomon Vs. State of Kerala

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Court : Kerala

Decided On : Mar-16-2010

Reported in : 2010(2)KLT371

Judge : M. Sasidharan Nambiai, J.

Acts : Indian Penal Code (IPC) - Sections 34 and 393; ;Code of Criminal Procedure (CrPC) - Section 482

Appeal No. : Crl.M.C. No. 823 of 2010

Appellant : Jomon

Respondent : State of Kerala

Advocate for Def. : I.V. Pramod, Public Prosecutor

Advocate for Pet/Ap. : Sooraj T. Elenjickal, Adv.

Disposition : Petition allowed

Judgement :

ORDER

M. Sasidharan Nambiai, J.

1. Petitioner, the second accused in Crime No. 409 of 2009 of Kidangoor Police Station, registered for the offence under Section 393 read with Section 34 of

Indian Penal Code, was granted bail, by Additional Sessions Judge, Kottayam under Annexure-I order dated 20.02.2010 on conditions. The third condition was that petitioner shall furnish cash security of Rs. 25,000/- to ensure his presence before the Investigating Officer. This petition is filed under Section 482 of Code of Criminal Procedure to delete that condition contending that in spite of the order dated 20.2.2010, petitioner is still in jail, as he is not capable of depositing the amount.

2. Learned Counsel appearing for the petitioner and learned Public Prosecutor were heard.

3. If, to enlarge an accused on bail, he has to make cash deposit of Rs. 25,000/- (Rupees twenty five thousand only), only an affluent accused will be able to enjoy the bail. On the other hand, a person living below the poverty line has to languish in jail, even if he is entitled to statutory bail. In such circumstances, the direction to make cash deposit and that too to ensure the presence of the accused for investigation, who is to be enlarged on bail, is too harsh. It is not at all justifiable. The very fact that in spite of the order passed on 20th February, 2010 petitioner is still in jail, establishes that it is because of his financial position, he could not enjoy the benefit of the bail granted under Annexure-I order.

In such circumstances, petition is allowed. Condition No. 3 in Annexure-I order is lifted.

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