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Court : Kerala

Decided On : Jul-15-2011

Judge : K.T. Sankaran

Appeal No. : Bail Applications Nos.5143 of 2011, 5396 & 5441 of 2011

Appellant : Mahesh @ Punchiri Mahesh and Others

Respondent : State of Kerala, Represented by Its Public Prosecutor High Court of Kerala

Judgement :

Bail Application No.5143 of 2011 is filed by accused No.2 (Mahesh alias Panchiry Mahesh) and accused No.4 Shafeek; Bail Application No.5396 of 2011 is filed by accused No.6 (Santhosh Nair and Bail Application No.5441 of 2011 is filed by accused No.5 (Santhosh alias Container Santhosh) in Crime No.100/CR/KLM/EOW1/2011 of CBCID, Kollam. All these Bail Applications are filed under Section 439 of the Code of Criminal Procedure.

2. Accused Nos.2 and 4 were arrested on 13-5-2011. Accused No.5 was arrested on 17-5-2011. Accused No.6 was arrested on 21-5-2011.

3. V.B. Unnithan, a reporter of Mathrubhumi daily was brutally attacked on the night of 16th April 2011. V.B. Unnithan returned from the Mathrubhumi office at

Ramankulangara and he reached Sasthamcotta by traveling in a bus. At Sasthamcotta, he proceeded to take his motor bike. At that time, accused Nos.1 to 4 attacked him with iron pipes. Unnithan sustained serious injuries, namely, fracture of both the bones of his left leg, fracture of spine and ribs and fracture of coccyx.

4. The prosecution case is the following: V.B. Unnithan had written reports in Mathrubhumi daily in October 2009 to the effect that accused No.6 Santhosh Nair, a Deputy Superintendent of Police, and some other police officers assembled at Government Guest House, Kollam with an abkari contractor on 13-10-2009 and hosted a hot drink party in connection with the Haj pilgrimage of another police officer. It was stated in that report that film stars and Television serial actresses were also present in the party. The newspaper report caused annoyance to many police officers including accused No.6. Dy. S.P. Santhosh Nair (Accused No.6) conspired with Santhosh alias Container Santhosh (accused No.5), who is running a trans-shipment business at Willington Island to attack V.B. Unnithan. Container Santhosh engaged accused Nos.1 to 4 (Sreejith alias Happy Rajesh, Mahesh alias Punchiry Mahesh, Annand and Shafeek) to do the operation to attack Unnithan. Anand and Happy Rajesh had organized a few “quotations” in and around Kollam. They planned to attack Unnithan and followed him on 12-4-2011 and 13-4-2011. But the plan did not fructify. Later, on 16.4.2011, after ascertaining the departure time of Unnithan from Mathrubhumi office, accused Nos.1 to 4 followed him on two motor bikes from Ramankulangara to Sasthamcotta. They had with them steel pipes in order to attack Unnithan. When Unnithan alighted from the bus at about 9.45 P.M. and proceeded to take his bike, he was attacked by Rajesh alias Happy Rajesh and Mahesh alias Punchiry Mahesh. Anand and Shafeek waited on their bikes in order to go immediately after the operation. Unnithan sustained serious injuries. He was taken to Padmavathy Hospital, Sasthamcotta. He was an inpatient in the hospital for several days. The learned Public Prosecutor submitted that even now, Unnithan is bedridden at his resident. The learned Public Prosecutor submitted that the test identification parade could not be completed since Unnithan was not in a position to travel to Sub Jail, Kollam.

5. It is submitted by the learned Public Prosecutor that investigation revealed the following. The accused had contacted Mathrubhumi office to ascertain the departure time of V.B. Unnithan from the office. Dy. S.P. Santhosh Kumar had mailed to Contained Santhosh a group photograph in which the photo of Unnithan was available. Container Santhosh showed the photograph of Unnithan to Happy Rajesh so as to familiarize Unnithan. It is submitted that the Laptops, mobile phones, digital camera etc. were seized and produced before court. Results of scientific examination are awaited.

6. The learned Public Prosecutor submitted that accused No.2 Mahesh is an accused in Crime No.262 of 2009 registered at Kollam East Police Station, for the offences under Sections 294 (b), 341, 324, 308 read with 34 of the Indian Penal Code. The allegation in that case is that the accused therein attempted to commit culpable homicide not amounting to murder of one Aneesh. Shafeek (accused No.4) and Mahesh (accused No.2) are involved in Crime No.606 of 2010 registered at East Kallada Police Station for the offences under Sections 143, 147, 148, 458, 294 (b), 323, 506 (ii), and 427 read with 149 I.P.C., where the allegation is that the accused therein attacked one Chandramathi at her residence. In Crime No.355 of 2011 of Kottiyam Police Station, Mahesh and Shafeek are also involved. Container Santhosh is an accused in Crime No.176 of 2009 of Punalur Police Station and Crime No.269 of 2005 of Sasthamcotta Police Station.

7. Senior Advocate Sri. Vijayabhanu, appearing for Santhosh alias Container Santhosh (accused No.5) submitted that the said accused is aged 56 years, that he surrendered before Court, that his custody was given to the police for seven days and all the recoveries were made. The Senior counsel also submitted that for the Test Identification Parade, the presence of accused No.5 is not required, as there is no case that he was present at the scene of occurrence. Since the passport of accused No.5 was seized by the police, there can be no apprehension that he would flee from justice.

8. Advocate Sri. S. Sreekumar, learned Counsel appearing for accused No.6 submitted that accused No.6 filed a complaint against the reporters of Mathrubhumi daily and Malayala Manorama daily before the Chief Judicial

Magistrate's Court, Kollam, alleging offences under Sections 499 and 500 of the Indian Penal Code and those cases are pending as C.C. Nos.2934 of 2010 and 2935 of 2010. The learned counsel also submitted that police custody of accused No.6 was given for five days, that no overt act is alleged against him and that he was implicated only on the basis of the disclosure statement given by accused No.5.

9. Sri. H. Harikumar, the learned counsel appearing for accused Nos.2 and 4 submitted that they were arrested on 13-5-2011 and there is no reason why they should be detained further. He also submitted that accused Nos.2 and 4 are prepared to abide by any condition while granting bail.

10. During investigation in the present case, Sreejith alias Happy Rajesh was found murdered near District Hospital, Kollam. Crime No.489 of 2011 was registered by Kollam East Police Station in respect of the same and investigation is going on.

11. "Quotation gangs" are alarmingly on the increase in the State. "Quotation gang", "quotation work" and similar expressions are very familiar to the people of Kerala. The said expression is a local usage. The expression "quotation" means engaging criminals or goondas by a person to attack his opponent, or to kill him, or to extract money from him or to terrorise him. "Quotation" is resorted to for various purposes. The persons who are engaged in quotation works are usually seasoned criminals. They do not hesitate to do anything in the process of exclusions of their work. Any common man would be afraid of "quotation gangs". It is said such criminal gangs are available in Metropolitan cities and other cities. But in the State of Kerala, "quotation gangs" are available anywhere and everywhere and even in villages. Unemployed youngsters get attracted to these gangs. They can make easy money. People are afraid to utter any word against a member of a "quotation gang". The very utterance of the name of the leaders of some of the "quotation gangs" is sufficient to create terror in the mind of common man.

12. The person who engaged a "quotation gang" for a particular "work" would also be comfortable. He can joyfully sit in the armchair and watch the results. He need only pay money. He need not exert any energy. He need not physically assault

anybody and subject himself to criminal action and hatred of the people. The “employer” can maintain his “status” in the society and at the same time conveniently oppress his opponents by engaging “quotation” people. There are affluent people who maintain quotation gangs. Such people need not fear anybody. Common man will shiver before him.

13. It is high time we think of curbing the activities of “quotation gangs”. Otherwise, people would not be safe. They would not be able to live a peaceful life.

14. In Saji E.R. V. State of Kerala : 2009 (4) KHC 177 = 2009 (4) KLT Short Notes 1 case No.1, I had occasion to say the following:

“The peace loving people are put to terror by the goonda gangs. The activities of goonda gangs are reportedly increasing day by day in the State. If the activities of the goonda gangs are not curbed, an alarming situation would arise whereby the ordinary citizens would be exposed to criminal acts at any time and at any place. The alarm would slowly grow to danger. A sense of insecurity would prevail in the minds of the ordinarily people. It would undermine the freedom of the people and make their life miserable. The State is bound to protect the fundamental rights and human rights of the law abiding citizen. If not, it would adversely affect the normal activities in life of the citizens. Many persons may resort to similar illegal and criminal activities. Lawlessness will prevail in the society. Rule of law would be put to jeopardy.”

15. In the present case, a Deputy Superintendent of Police is alleged to have engaged a “quotation gang” for eliminating V.B. Unnithan, the reporter of Mathrubhumi daily. One can imagine how the culture of “quotation” has spread in the society. If the police officers engage “quotation gangs” for their private purposes, how can the common man expect justice if he is a victim in a “quotation crime”? It was argued by the counsel appearing for accused No.6 (Santhosh Nair, Dy. S.P.) that he filed complaints before the Criminal court against the reporters of Mathrubhumi daily and Malayala Manorama daily in the year 2010. If the case of the prosecution in the present case is true, it means that Santhosh Nair was not satisfied even after initiating criminal action against those who allegedly acted against him in reporting the news. That was why he allegedly engaged a

“quotation gang” for eliminating his “enemy”. That means Santhosh Nair has no faith in the Criminal justice administration. If the same path is followed by a considerable number of people, where would be the Rule of Law?

16. In the facts and circumstances of the present case, I am of the view that it would not be just and proper to grant bail to the petitioners at this stage. The investigation is in progress. The victim is still bedridden. The victim could not even go to the Sub Jail for the Test Identification Parade. If the petitioners are released on bail at this stage, they would resort to various methods to influence the witnesses and to tamper the evidence.

For the aforesaid reasons, the Bail Applications are dismissed.

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