

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 20TH DAY OF DECEMBER 2013/29TH AGRAHAYANA, 1935

Bail Appl..No. 8349 of 2013 ()

CRIME NO. 3434/2013 OF KARUNAGAPPALLY POLICE STATION, KOLLAM DISTRICT

PETITIONERS / ACCUSED NOS. 1, 4 AND 5 :

- 1. SHAFI, S/O.ASHRAF, AGED 20 YEARS
VADOR PUTHEN VEEDU, ALUMKADAVU PO
KARUNAGAPPALLY, KOLLAM DISTRICT.**
- 2. SAHID, S/O.NIZAMUDHEEN, AGED 23 YEARS
PALLIYUDE VADAKKATHIL HOUSE
THODIYOOR P.O., KARUNAGAPPALLY,
KOLLAM DISTRICT.**
- 3. SANEESH, S/O.ABDUL NAZEER, AGED 23 YEARS
SANEESH MANZIL, KAROORKADAVU
MYNAGAPPALLY, KARUNAGAPPALLY,
KOLLAM DISTRICT.**

**BY ADVS.SRI.SUNNY MATHEW
SRI.S.R.SREEJITH
ANOOP C.C.**

RESPONDENTS/COMPLAINANT AND STATE :

- 1. THE SUB INSPECTOR OF POLICE
KARUNAGAPPALLY POLICE STATION
KOLLAM DISTRICT - 691 001**
- 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20-12-2013,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

P.BHAVADASAN, J.

Bail Application No.8349 OF 2013

Dated this the 20th day of December, 2013.

O R D E R

The petitioners are accused Nos.1, 4 and 5 in Crime No.3434/2013 of Karunagappally Police Station who are alleged to have committed the offences punishable under Sections 447, 323, 324, 354 and 427 read with Section 34 IPC. The allegation against the petitioners is that on 16.10.2013, they along with other accused persons at about 8.30 p.m trespassed into the courtyard of the house of the de facto complainant and attacked the de facto complainant causing injuries to him. When his wife and sister came to his rescue, they were also attacked.

2. The petitioners would say that they are innocent and have been falsely implicated with ulterior motive. They deny of having committed any act as alleged. The reason alleged for the attack, according to the petitioners, is highly improbable and unnatural. It is further pointed out that even assuming all the allegations are true, no offence under Section 354 IPC is made

out and the said provision has been incorporated with the deliberate intention of seeing that the petitioners are denied bail.

3. Learned Public Prosecutor opposed the petition and pointed out that the investigation is at an infant stage and the acts of the petitioners are such that they do not deserve any leniency.

4. After having heard the learned counsel for the petitioners, the learned Public Prosecutor and also after having perused the records, the claim of the petitioners that they are totally innocent cannot be countenanced. A deeper probe into the veracity of the allegations is not warranted at this point of time. However, there seems to be much force in the contention taken by the learned counsel for the petitioners that even assuming all the allegations are true, offence under Section 354 IPC cannot be attracted. Final opinion in this regard is not warranted at this point of time.

5. Suffice to say that, considering the nature of the allegations against the petitioners, the manner in which the offences were committed, the weapons used, the time at which

the incident occurred, injuries caused to the victims and also the fact that the investigation is at an infant stage, this Court is precluded from exercising its extra ordinary jurisdiction in favour of the petitioners. Therefore, the application is only to be dismissed and I do so.

However, if the petitioners are so advised, they may surrender before the Investigating Officer on or before 27.12.2013 who, after interrogation, shall produce them before the Court concerned who, on an application of bail being moved by the petitioners, shall dispose of the same in accordance with law.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

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P.A. to Judge.