

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

Bail Appl..No. 8563 of 2014 ()

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CRIME NO. 1475/2014 OF ERATTUPETTA POLICE STATION, KOTTAYAM DISTRICT.**

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PETITIONERS:

- 1. THOMAS, S/O.VARKEY, AGED 54 YEARS,
VANIYAPURACKAL, VAGAMON. P.O.,
VAZHIKKADAVU, POONJAR NADUBHAGOM VILLAGE.**
- 2. TIBIN, THOMAS, AGED 24 YEARS,
VANIYAPURACKAL, VAGAMON. P.O.,
VAZHIKKADAVU, POONJAR NADUBHAGOM VILLAGE.**

BY ADV. SRI.P.C.HARIDAS.

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE S.I. OF POLICE,
ERATTUPETTA POLICE STATION, PIN-686 121.**
- 2. PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.LISHA M.G.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

SUNIL THOMAS, J.

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B.A.No.8563 of 2014

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Dated this the 10th day of July, 2015

ORDER

The petitioners are father and son who stand indicted in Crime No.1475 of 2014 of the Erattupetta Police Station for offences punishable under Sections 379, 447, 427 r/w Section 34 of the Indian Penal Code.

2. The genesis of the case was a complaint filed by the de facto complainant before the magistrate court alleging the above offences. The complaint was forwarded by the learned magistrate for investigation under Section 156(3) of the Code of Criminal Procedure. The basis of the allegation is that the accused trespassed into the property belonging to the de facto complainant and cut and removed certain trees. Based on the complaint, police have registered a crime and is investigating. Apprehending arrest, accused have approached this Court seeking pre-arrest bail.

3. Heard and examined the records.

4. It is seen that by Annexure-A, there was an agreement to exchange an item of property belonging to the de facto complainant to the accused, who in turn agreed to assign another item property belonging to the accused, to the de facto complainant. It is also

alleged that accused were put in possession of the disputed property. Thereafter, a suit for injunction was laid by the de facto complainant seeking interlocutory relief. Ultimately, suit was dismissed for default. It is submitted that restoration application is also pending.

5. Essentially, whether the accused have trespassed to the property and cut and removed the trees is a question which have a bearing on the respective civil rights of the parties over the properties. It seems to be admitted that trees have been cut and removed. The question of theft will arise on the basis of the legal and factual issue which has a flavour of civil dispute.

6. In the light of the above, I feel that it may not be expedient to have custodial interrogation of the accused. Hence, I am inclined to grant bail to the applicants but subject to the following conditions:

(i) Applicants shall appear before the Investigating Officer on 20.07.2015 between 9 a.m. and 10 a.m., After interrogation, in the event of their arrest, they shall be released on bail on each of the applicant executing a bond for a sum of Rs.40,000/- (Rupees forty thousand only) with two sureties each for the like sum each.

(ii) Applicants shall not interfere in the process of investigation, threaten, coerce or

intimidate the witnesses.

(iii) Applicants shall appear before the Investigating Officer as and when called for.

The application is allowed accordingly.

Sd/-

SUNIL THOMAS
Judge

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