

Shabeer S. Vs. State of Kerala

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Court : Kerala

Decided On : Jul-30-2013

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Shabeer S.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY, THE 30TH DAY OF JULY 2013 8TH SRAVANA, 1935 CrI.MC.No. 3175 of 2013 ----- SC 309/2013 of ADDITIONAL SESSIONS COURT (ADHOC)-II, KOLLAM PETITIONER/ACCUSED: SHABEER S. S/O.ASHARAF, KOLLITHARATHEKKATHIL, MALIAKKAL JUNCTION KALLELIBHAGAM P.O., KARUNAGAPPALLY, KOLLAM DISTRICT. BY ADV. SRI.T.GOPALAKRISHNAN RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE KARUNAGAPPALLY, THROUGH THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM

031. R BY PUBLIC PROSECUTOR SMT. S. HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30-07-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: V.K.MOHANAN, J.

----- Dated this the 30th day of July, 2013

ORDER

The petitioner who is one of accused in Crime No. 248/2009 of Karunagappally Police Station, where the offences involved are under Sections 143, 147, 148, 452 and 307 r/w Section 149 of IPC. According to the petitioner, though he once released on bail, he failed to appear before the Court below consequently the trial proceeded against other accused which resulted in they are acquitted. According to the petitioner, he is ready to surrender before the Court below, he apprehends that he will be send to jail. Therefore, the present petition is filed under Section 482 of Cr.P.C with a prayer to consider the Court below his application for bail and release him on the date of his surrender itself.

2. Heard the counsel for the petitioner and the learned Public Prosecutor.

3. Having regard to the facts and circumstances involved in the case it appears that though the crime was registered during the year 2009, the petitioner is managed to Crl.M.C.No.3175 o

2. evade from the process of Court and hence the case against the other accused proceeded in S.C.No.1497/2010 on the file of the Additional District and Sessions Court (Adhoc-II), Kollam. As the petitioner jumped over the bail condition and due to non-co-operate with the trial, the present position is that the Court below is burdened with another full fledged trial again against the petitioner. Under the above circumstances, this Court will not justified in asking the Court below to consider his application and released him on bail on the date of his surrender itself, sine those powers are vested with the trial Court. However, it is for the petitioner to surrender before that Court and to seek regular bail and it is for the trial court to consider his bail application on merit. In the result, there is no merit in this petition and accordingly the same is dismissed. Sd/- V.K.MOHANAN, JUDGE
AS