

Udayan Vs. State of Kerala

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Court : Kerala

Decided On : Oct-22-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Udayan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR.JUSTICE HARUN-UL-RASHID TUESDAY, THE22D DAY OF
OCTOBER201330TH ASWINA, 1935 CrI.MC.No. 1309 of 2013 ()
----- AGAINST THE

ORDER

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JUDGMENT

IN CrI.Rev.Pet 45/2002 of HIGH COURT OF KERALA DATED1807-2007
AGAINST THE

ORDER

/

JUDGMENT

IN CC13012001 of ADDL.CHIEF JUDL.MAGISTRATE, ERNAKULAM
PETITIONER/ACCUSED: ----- UDAYAN, AGED 49 YEARS,
S/O.CHANDRAN KUNJ, KADANTHRA VEEDU, CHEPPANAM DESOM
KUMBALAM VILLAGE, ERNAKULAM DISTRICT. BY ADV. SRI.S.RAJEEV
RESPONDENT/COMPLAINANT/STATE: ----- STATE OF
KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM (CRIME NO.11/94 OF PANANGAD POLICE STATION,
ERNAKULAM DISTRICT; NOW RESIDING AS LP NO.88/2003 BEFORE THE
ADDL.CJMC ERNAKULAM). BY PUBLIC PROSECUTOR SRI. ROY THOMAS
THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22-10-
2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No.
1309 of 2013 () ----- APPENDIX PETITIONER'S ANNEXURES:
----- ANNEXURE-I.CERTIFIED COPY OF THE FINAL REPORT IN
CC671996 (NOW PENDING AS LP882003). ANNEXURE-II.COPY OF

JUDGMENT

IN CRL.RP NO.45/2002 DATED 18/7/2007 PASSED BY THIS HONOURABLE
COURT. RESPONDENT'S ANNEXURES: NIL ----- /TRUE COPY/
P.A. TO JUDGE cl HARUN-UL-RASHID, J.

----- CrI.M.C. No.1309 of 2013 ----- Dated this the
22nd day of October 2013.

ORDER

Heard the learned counsel for petitioner and respondents.

2. Petitioner is arrayed as 2nd accused in Crime No. 11/1994 of Panangad Police Station pending as C.C. No. 67/1996 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam. The offences alleged is punishable under Sections 143, 147, 148, 324 read with Section 149 IPC. The CrI.M.C is filed seeking to quash the proceedings in C.C.No.67/1996 (renumbered as C.C.No.1301/2001) pending as L.P.No.88/2003 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam. Due to the non-appearance of the petitioner, non-bailable warrant was issued against him. The petitioner was employed in Gulf and it is

submitted that he was compelled to remain in Gulf for his livelihood. It is also pointed out that the case against the co-accused was proceeded with and ended in conviction. The judgment was confirmed in Crl.Appeal No.350/2001. The order of sentence was modified in Crl.R.P.No. 45/2002 and the sentence is reduced to imprisonment till rising of court and a compensation of Rs.12,000/- each, in default of payment to undergo simple Crl.M.C. No.1309/2013 :

2. : imprisonment for a period of six months each. The petitioner failed to participate in the trial along with the co-accused. The petitioner apprehends that that if he would surrender before the learned Magistrate he will be remanded to custody and only thereafter, his application for bail would be considered by the learned Magistrate. The offence alleged are bailable.

3. The petitioner is willing to surrender before the court below. Non-bailable warrant is pending against him. Now, the petitioner seek a direction from this Court to consider their application for bail on the date of surrender itself. In the facts and circumstances, the Crl.M.C is disposed of, directing the Additional Chief Judicial Magistrate Court, Ernakulam to consider and pass orders on the bail application on the date of surrender itself in the event of the petitioner surrendering before the court below and submitting an application for bail with prior notice to the Assistant Public Prosecutor within a period of ten days from today. The non-bailable warrant issued shall be kept in abeyance till the bail application is heard and dispose of.
Sd/- HARUN-UL-RASHID, Judge. AL/- True copy P.A to Judge

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