

Lizzy Vs. State of Kerala

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Court : Kerala

Decided On : Nov-01-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Lizzy

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID FRIDAY, THE 1ST DAY OF NOVEMBER 2013 10TH KARTHIKA, 1935 CrI.MC.No. 4903 of 2013 () ----- C.M.P.4771/2013 IN ST. NO.223/2013 OF CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA. PETITIONER/ACCUSED: ----- LISSY THOMAS, AGED 46 YEARS, D/O. MATHAI, RESIDING AT NELLIPPUZAHAYIL HOUSE, VAZHATHOPPU VILLAGE, IDUKKI. BY ADV. SRI.PADAYATTEE YELDO. RESPONDENTS/COMPLAINANTS/STATE: ----- 1. STATE OF KERALA, THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM.

2. M/S. SREE GOKULAM CHIT AND FINANCE COMPANY (PVT) LTD., ARCOT ROAD, KODAMBAKKOM, CHENNAI-600 024, REP. BY POWER ATTORNEY HOLDER MR. JOMY M.C., S/O. CHACKO (SENIOR BUSINESS MANAGER), THODUPUZHA BRANCH, IDUKKI DISTRICT. R1 BY PUBLIC PROSECUTOR MR.RAJESH VIJAYAN. THIS CRIMINAL MISC. CASE HAVING COME UP FOR

ADMISSION ON0111-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. CrI.MC.No. 4903 of 2013 APPENDIX PETITIONER'S ANNEXURES:- ANNEXURE A1. TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FROM THE PHYSICIAN DATED2407-2013. ANNEXURE A2. TRUE COPY OF THE CMP.4771/13 FILED UNDER SECTION205CR.PC. DATED2407-2013. ANNEXURE A3. TRUE COPY OF THE

ORDER

IN C.M.P. NO. 4771/13 OF JFMC, THODUPUZHA DATED2507-2013. RESPONDENT'S ANNEXURES:- NIL. //TRUE COPY// P.A. TO JUDGE rs. HARUN-UL-RASHID, J.

----- CrI.M.C. No. 4903 of 2013 ----- Dated this the 1st day of November 2013.

ORDER

Petitioner is the accused in S.T.No. 223/2013 on the file of the Chief Judicial Magistrate Court, Thodupuzha. It is submitted that she is totally laid up due to dislocation of disc of back born, is undergoing treatment and was advised to take complete bed rest. She cannot travel by bus due to heavy bleeding. It is submitted that she has to travel 270 km to and fro after attending the case at Thodupuzha and to hire an ambulance to avoid untoward situation due to her body ache. She is residing at Vazhathoppu. The request of the petitioner is to dispense with personal appearance in court. Learned Magistrate rejected the plea.

2. In the facts and circumstance of the case, I feel that the petitioner is unable to undertake journey from her place of residence to the court even for a single posting. Learned counsel for the petitioner brought the attention of this Court to the decision reported in Jain Babu V/s. Joseph (2008(4) KLT16. In paragraph 37 the court following the rules for guidance of which first rule reads as follows: CrI.M.C. No.4903/2013 :

2. : i) Hereafter in all 138 prosecutions, the very fact that the prosecution is one under Section 138 of the Negotiable Instruments Act shall be reckoned as

sufficient reason by all criminal courts to invoke the discretion under Section 205 Cr.P.C and only a summons under Section 205 Cr.P.C shall be issued by the criminal courts at the first instance. In all pending 138 cases also applications under Section 205 Cr.P.C shall be allowed and the accused shall be permitted to appear through their counsel. In the facts and circumstance of the case, this Court permit the petitioner to appear in all proceedings before the court below through her lawyer, except for postings the Magistrate is of the view that her presence is necessary. Sd/- HARUN-UL-RASHID, Judge. AL/- True copy P.A to Judge Crl.M.C. No.4903/2013 :

3. :

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