

Biju Vs. the State of Kerala

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Court : Kerala

Decided On : Nov-29-2013

Judge : Honourable Mr.Justice Harun-Ul-Rashid

Appellant : Biju

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID FRIDAY,THE29H DAY OF NOVEMBER20138TH AGRAHAYANA, 1935 CrI.MC.No. 5454 of 2013 ()
----- AGAINST THE

ORDER

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JUDGMENT

IN CRMP47492013 IN SC NO. 795/2009 ON THE FILE OF THE ADDL. SESSIONS COURT - III, ALAPPUZHA DATED1110-13 PETITIONER/ACCUSED NO.1: ----- BIJU, AGED30YEARS, S/O. RAJAPPAN, CHOOZHATTILTHARA HOUSE, WARD NO.3, VAYALAR PANCHAYAT, CHERTHALA, ALAPPUZHA. BY ADV. SRI.P.SHANES RESPONDENT/RESPONDENT: ----- STATE OF KERALA REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA

ERNAKULAM - 682 031. BY PUBLIC PROSECUTOR SMT. HYMA S. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.11.13, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 5454 of 2013 () ----- APPENDIX PETITIONER(S)' EXHIBITS: ----- ANNEXURE I : TRUE COPY OF THE PETITION OF CRL.MP NO.4749/2013 IN SC NO.795/2009 ON THE FILE OF THE ADDL.SESIONS JUDGE- III, ALAPPUZHA. ANNEXURE II: CERTIFIED COPY OF

ORDER

DATED 11.10.2013 CRL.MP NO.4749/2013 IN SC NO.795/2009 ON THE FILE OF THE ADDL.SESIONS JUDGE-III, ALAPPUZHA, DTD.11.10.2013. RESPONDENT(S)' EXHIBITS : NIL ----- // TRUE COPY // P.A TO JUDGE SB HARUN-UL-RASHID, J.

----- CrI. M.C No. 5454 of 2013 ----- Dated this the 29th day of November, 2013.

ORDER

Petitioner is the first accused in CrI.M.P No.4749/2013 in S.C No. 795/2009 under Sec. 311 of Cr.P.C. for recalling Pws 1 to 4 and PW8 and 9 on the ground that he failed to ask certain question to the witnesses regarding the injuries sustained to accused No.1 in this case. The offence alleged against the petitioner is punishable under Sections 326, 324, 308 r/w 34 of IPC. Accused No.1 is the son of accused No.2. According to the petitioner, after the death of his father, who is accused No.2, he received certain documents on his death and he want to put certain questions by recalling the witnesses. The learned Judge considered the application. The learned judge noticed that the petitioner himself as stated in the petition that PWs 1 to 4 were already cross-examined in respect of the injury sustained to accused No.1.

2. The learned Judge observed that recalling of Pws 1 to 4, PW8 and 9 is not considered essential for the CrI. M.C No. 5454 of 2013 2 just decision of the case or for bring out the evidence in respect of the document now produced by the

defence counsel and that the present petition is filed only to prolong the trial of the case. The learned Judge also observes that the defence will get opportunity to bring out evidence relating to the documents produced by accused No.1 at the stage of defence evidence by examining the doctor who issued the discharge card. For these reasons, the learned Judge found that the petition lacks bonafide and liable to be dismissed. I have examined the materials on records and reasoning of the court below. No sustainable grounds are made out by the petitioner for granting the relief sought for in the Crl.M.C. Accordingly, the Crl.M.C is dismissed. HARUN-UL-RASHID, JUDGE. Isn

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