

Vinod Kumar Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1142671

Court : Kerala

Decided On : May-27-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Vinod Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR. JUSTICE P.UBAID TUESDAY,THE27H DAY OF
MAY20146TH JYAISHTA, 1936 Crl.Rev.Pet.No. 945 of 2014
----- CC5442007 of JUDICIAL FIRST CLASS
MAGISTRATE COURT-II,ATTINGAL ----- REVISION
PETITIONER/APPELLANT/CW1:: -----
VINOD KUMAR, S/O SWAMINATHAN, UTHRALAYAM VEEDU, NEAR
THONNAL DEVI TGEMPLE, PALLIPURAM VILLAGE,
THIRUVANANTHAPURAM. BY ADV. SRI.SHAJIN S.HAMEED
RESPONDENT(S)/RESPONDENTS/STATE AND A1 TYO A4:
----- 1. STATE OF
KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

2. RAMACHANDRAN NAIR, S/O SIVASANKARAN NAIR, SANKARA
MANGALAM VEEDU, VALIYVEETTU MURI, PALLIPPURAM VILLAGE,

THIRUVANANTHAPURAM, PIN CODE:695 316.

3. SREEKUMARAN NAIR, S/O SIVASANKARAN NAIR, SANKARA MANGALAM VEEDU, VALIYVEETTU MURI, PALLIPPURAM VILLAGE, THIRUVANANTHAPURAM, PIN CODE:695 316.

4. CHANDRACHOODAN, S/O SIVASANKARAN NAIR, SANKARA MANGALAM VEEDU, VALIYVEETTU MURI, PALLIPPURAM VILLAGE, THIRUVANANTHAPURAM, PIN CODE:695 316.

5. VIJAYAKUMAR, S/O GANGADHARAN, MANAKATTIL VEEDU, VALIYAVEETTU MURI, PALLIPURAM VILLAGE, THIRUVANANTHAPURAM, PINCODE:695 316. R1 BY SENIOR PUBLIC PROSECUTOR SMT.LILLY LESLIE THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 27.05-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:
PJ Crl.Rev.Pet.No. 945 of 2014 ----- APPENDIX
PETITIONERS' ANNEXURES ----- ANNEXURE A:
PHOTOCOPY OF THE

JUDGMENT

DATED 29.9/2011 IN CC.NO.544/2007 OF THE JUDICIAL 1ST CLASS
MAGISTRATE COURT-II, ATTINGAL RESPONDENTS' ANNEXURES
----- NIL. / TRUE COPY / P.S. TO JUDGE PJ
P.UBAID, J.

----- Crl.R.P No.945 of 2014
----- Dated this the 27th day of May, 2014

ORDER

The revision petitioner herein is the defacto complainant and the injured in C.C.No.544/2007 of the Judicial First Class Magistrate Court-II, Attingal. On trial, the trial court acquitted the accused by judgment dated 29.9.2011. Against the acquittal the revision petitioner preferred appeal before the Court of Session, Thiruvananthapuram as Crl.A No.146/2012, in exercise of his right as victim of offence. As the filing of appeal was delayed for about 500 days, he filed Crl.M.P

No.587/2012 for condonation of delay in filing the appeal. On 17.11.2012 the learned Additional Sessions Judge, Thiruvananthapuram dismissed Crl.M.P No.587/2012 for default, and consequently dismissed the Criminal Appeal as time barred. The said order is under challenge in this revision.

2. The learned counsel for the revision petitioner submitted that the counsel for the appellant in the appellate court could not appear on the date of posting only because he Crl.R.P No.945 of 2014 2 was involved in a motor accident, and sustained grievous injuries. This submission regarding the inability of the counsel to appear in court is accepted by this Court, and I find that the application to condone delay will have to be decided on merits, for which an opportunity can be granted to the revision petitioner. In the nature of disposal, I feel it is not necessary to issue notice to the respondents in this proceedings. For taking a just decision in the application to condone delay, notice to the respondents can be issued from the appellate court. For the said purpose proceedings in this revision need not be delayed. There is reason to believe that the revision petitioner is in fact aggrieved by the order of acquittal. It is submitted that he had sustained some injuries in the incident of assault, and for the redressal of his grievance as victim of offence he wants to prosecute the appeal. I feel it just and appropriate to allow him to prosecute the matter in the appellate court. In the result, this revision petition is allowed. The impugned orders of the court below dated 17.11.2012 dismissing Crl.M.P No.587/2012 and Crl.A No.146/2012 are hereby set aside and the matter is ordered to be restored to files in the Court of Session. The Sessions Court is directed to decide Crl.R.P No.945 of 2014 3 the application for condonation of delay on merits, after granting an opportunity to the revision petitioner to substantiate his grounds. Notice to the respondents shall be issued in the proceedings from the trial court. The revision petitioner will appear in the trial court on 1.7.2014. Sd/- P.UBAID JUDGE //True Copy// P.A to Judge ab