

Radhakrishnan Vs. State of Kerala

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Court : Kerala

Decided On : Jul-11-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Radhakrishnan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 11TH DAY OF JULY 2014 20TH ASHADHA, 1936 CrI.MC.No. 3871 of 2014 () ----- LP222014 of ADDL. CJIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM ----- PETITIONER/ACCUSED : ----- RADHAKRISHNAN, AGED 32 YEARS, S/O. RAMAKRISHNAN, VELLIMPARAMBIL HOUSE, ALANGAD P.O., KOTTAPURAM, THIRUVALLOOR VILLAGE. BY ADV. SRI.K.S.RAJEEV (ALUVA) RESPONDENT/COMPLAINANT : ----- STATE OF KERALA, BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031 BY PUBLIC PROSECUTOR SMT.P.MAYA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-07-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BP K. Ramakrishnan, J.

===== CrI.M.C.No.3871 of 2014
===== Dated this, the 11th day of July, 2014.

ORDER

This Criminal Miscellaneous Case is filed by the accused in C.C.No.1348/2012 which is numbered as L.P.No.22/2014 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam to issue direction to the Magistrate under Section 482 of the Code of Criminal Procedure.

2. The case of the petitioner in the petition is that he is the accused in L.P.No.22/2014 in C.C.No.1348/2012 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam alleging offence under Section 401 of Indian Penal Code. The other accused had already appeared and their case has been disposed of. After investigation, final report was filed and the learned magistrate has taken cognizance of the offence and taken the case on file as C.C.No.1348/12 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam. The summons issued by the court below did not reach the petitioner as he was working in Kozhikode. Consequent to the non appearance of the petitioner, the learned magistrate issued non bailable warrant to the petitioner. Now, non Crl.M.C.No.3871 of 2014 :

2. : bailable warrant is pending against him. The court below, after continuous issuance of warrant against the petitioner, has transferred the above said case to register of long pending cases and it is now pending as L.P.No.22/2014 before that court. Though the petitioner is prepared to surrender, in view of the pendency of non bailable warrant against him, he apprehends that he is likely to be remanded and his bail application will not be considered on the date of filing of the application itself. So, the petitioner has no other remedy except to approach this Court seeking the following relief: "To direct the Additional Chief Judicial Magistrate Court, Ernakulam to consider the bail application on the same day itself and pass appropriate orders in accordance with law irrespective of the pendency of the warrant against the accused." 3. Considering the nature of relief claimed in the petition, this Court felt that the petition can be disposed of at the admission stage itself after hearing the counsel for the petitioner and the learned Public Prosecutor.

4. Learned counsel for the petitioner submitted that his only apprehension is that if he surrenders, his bail application CrI.M.C.No.3871 of 2014 :

3. : will not be considered on the same day and he will be remanded to custody.

5. The petition was opposed by the Public Prosecutor the ground that the petitioner was absconding.

6. It is an admitted fact that the petitioner is accused in L.P.No.22/2014 in C.C.No.1348/2012 on the file of the Additional Chief Judicial Magistrate Court, Ernakulam alleging offence under Section 401 of Indian Penal Code. Consequent to the non appearance of the petitioner, the learned magistrate issued non bailable warrant to the petitioner. Now, non bailable warrant is pending against him. The court below after continuous issuance of warrant against the petitioner, has transferred the above said case to register of long pending cases and it is pending before that court as L.P.No.22/2014. The apprehension of the petitioner that, if he surrenders before the court below and moves for bail, he will be remanded and his application will not be considered on the date of filing itself is not genuine and without any basis. This Court has time and again observed in several petitions of this nature that the Presiding Officers of the criminal courts are duty bound to dispose of the bail applications, if any, CrI.M.C.No.3871 of 2014 :

4. : filed by the accused persons on their surrender on the date of filing of the application itself unless compelling circumstances warrant postponement of the same to a future date. So, in fact, there is no necessity to issue any direction as sought for in the petition. However, considering the apprehension expressed in the petition, this Court feels that the petition can be disposed of as follows: If the petitioner surrenders before the Additional Chief Judicial Magistrate Court, Ernakulam and moves for recalling the warrant and for releasing him on bail in L.P.No.22/2014 now pending before that court, then, the learned Magistrate is directed to consider and dispose of the bail application after hearing the Assistant Public Prosecutor of that court in accordance with law as far as possible on the date of filing of the application itself. With the above direction and observation, the petition is disposed of. Office is directed to communicate this order to the concerned court immediately. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to

Judge

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