

Vijayan Vs. State of Kerala

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Court : Kerala

Decided On : Jul-15-2014

Judge : Honourable Mr. Justice a.Hariprasad

Appellant : Vijayan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.HARIPRASAD TUESDAY, THE15H DAY OF JULY2014/24TH ASHADHA, 1936 CrI.MC.No. 1275 of 2013 ()
----- CRIME NO. 689/2013 OF KARUNAAGAPALLY POLICE STATION , KOLLAM PETITIONER(S)/1ST ACCUSED: ----- VIJAYAN PARTNER, BEENA STEEL COMPONENTS, PRIYADARSHINI JUNCTION KAYAMKULAM, ALAPUZHA DISTRICT. BY ADV. SRI.A.SHAFEEK (KAYAMKULAM) RESPONDENT(S)/DEFACTO COMPLAINANT & STATE: ----- 1. STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE KARUNAGAPPALLY POLICE STATION KOLLAM DISTRICT THROUGH PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. PIN-682031.

2. ABDUL SATHAR, S/O. KOYAKUTTY, MANHAL VEEDU, VADAKKUMTHALA VILLAGE PANMALA.P.O., KOLLAM DISTRICT-691237. R1 BYADV.PUBLIC

PROSECUTOR JUSTIN JACOB THIS CRIMINAL MISC. CASE HAVING BEEN
FINALLY HEARD ON 15-07-2014, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING: CrI.MC.No. 1275 of 2013 () ----- APPENDIX
PETITIONER(S)' EXHIBITS ----- ANNEXURE.1
CERTIFIED COPY OF THE FIR IN CRIME NO. 689/2013 OF
KARUNAGAPPALLY POLICE STATION. ANNEXURE.2 PHOCOPY OF THE
LETTER DATED 14-3-2011 SENT BY THE CONCERN TO THE COMERCIAL TAX
OFFICER, HARIPPAD. RESPONDENT(S)' EXHIBITS: NIL
----- //TRUE COPY// A.HARIPRASAD, J.

----- CrI.M.C. No.1275 of 2013
----- Dated this the 15th day of July, 2014.

ORDER

Petition filed under Section 482 of the Code of Criminal Procedure.

2. Petitioner is the 1st accused in Crime No.689 of 2013 of Karunagappally Police Station registered under Section 420 read with Section 34 of the Indian Penal Code (in short, "IPC"). There are four other accused in the crime. Annexure-1 first information report contains the first information statement, based on which the crime was registered. The allegation raised by the defacto complainant is as follows: The defacto complainant is running a commercial establishment by name Mullasseril Paints, Karunagappally. He is engaged in supplying paints to various shops. He has sales tax TIN No.32020966708. The defacto complainant is the only person entitled to use the said TIN number. However, the accused persons misused the TIN number and dealt with commercial articles using the TIN number of the defacto complainant. Therefore, it is alleged that the accused persons have committed the aforementioned offences.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor. CrI.MC No.1275/2013 2 4. Learned counsel for the petitioner submitted that the 1st accused is a wholesale distributor of hardwares. He struck a deal with the 2nd accused and agreed to supply certain articles. 2nd accused by mistake furnished the TIN number of the defacto complainant to the 1st accused. That was mistakenly shown by the 1st accused in the dealings and some tax liability was

accrued to the defacto complainant. This was in the year 2011. Immediately on knowing the mistake committed by the 2nd accused, the 1st accused promptly contacted the sales tax authorities by Annexure-2 letter dated 14.03.2011. It is mentioned in Annexure-2 that appropriate action at the end of the Commercial Tax Officer be taken to rectify the mistakes in the bills generated.

5. At the time of hearing, this Court directed the learned Prosecutor to get a report from the Commercial Tax Officer, Harippad to confirm the veracity of the contentions raised by the petitioner. As per report dated 08.07.2014, the Commercial Tax Officer has stated that they received a request from the 2nd accused promptly and no action has so far been taken in this matter. Considering the state of affairs, I am of the view that the criminal prosecution against the petitioner is an unnecessary exercise. To meet the ends of justice, it has to be terminated by quashing the first information report against the petitioner. In the result, the petition is allowed. Annexure-1 first CrI.MC No.1275/2013 3 information report in Crime No.689 of 2013 of Karunagappally Police Station, insofar as it relates to the petitioner, is hereby quashed. All pending interlocutory applications will stand dismissed. A. HARIPRASAD, JUDGE. cks

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