

Georgia George Vs. State

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Court : Kerala

Decided On : Aug-11-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Georgia George

Respondent : State

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN MONDAY, THE 11^H DAY OF AUGUST 2014 20TH SRAVANA, 1936 CrI.MC.No. 4314 of 2014 ()
----- L.P. 5/2009 IN SC6132003 of SUB COURT, THIRUVALLA
----- PETITIONER/2ND ACCUSED: -----
GEORGIA GEORGE @ MONAYI, AGED 34 YEARS, S/O. GEORGE VARGHESE, PALLIYIL VEEDU, PERISERI MURI, PULIYOOR VILLAGE, CHENGANNUR ALAPPUZHA DISTRICT (PALLIYIL VEEDU, NEAR TIMBER DEPOT ARATTUPUZHA.P.O, PATHANAMTHITTA DISTRICT-689123). BY ADV. SRI.S.HARIKRISHNAN RESPONDENTS/COMPLAINANTS :
----- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031.

2. THE SUB INSPECTOR OF POLICE, KOIPURAM, PATHANAMTHITTA DISTRICT-689123. BY PUBLIC PROSECUTOR SMT. S. HYMA THIS CRIMINAL

MISC. CASE HAVING COME UP FOR ADMISSION ON 11-08-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BP CrI.MC.No. 4314 of 2014 ()

----- APPENDIX PETITIONER(S)' EXHIBITS
----- ANNEXURE A1: COPY OF THE RELEVANT PAGES
OF FINAL REPORT IN CRIME NO.78/2003 OF KOIPURAM POLICE STATION.
RESPONDENT(S)' EXHIBITS : NIL. //TRUE COPY// P.A. TO JUDGE BP K.
Ramakrishnan, J.

===== CrI.M.C.No.4314 of 2014
===== Dated this, the 11th day of August, 2014.

ORDER

This Criminal Miscellaneous Case is filed by the petitioner who is the second accused in S.C.No.613/2003 which is now pending as L.P.No.05/2009 on the file of the Assistant Sessions Court, Thiruvalla, to issue direction to the Magistrate under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code').

2. The case of the petitioner in the petition is that he is the second accused in L.P.No.05/2009 in S.C.No.613/2003 pending before the Assistant Sessions Court, Thiruvalla alleging offences under Sections 447, 294(b), 308 read with Section 34 of Indian Penal Code. Initially, the petitioner had been enlarged on bail by the Assistant Sessions Court, Thiruvalla in S.C.No.613/2003. Later, in search of employment, he went out of Kerala and could not participate in the proceedings. So, the case against the petitioner is split up and case against the first accused was proceeded with. Since he did not appear even though, the case against him was transferred to register of long pending case and it is now CrI.M.C.No.4314 of 2014 :

2. : pending as LP.No.L.P.No.05/2009 before that court and non bailable warrant is pending against him. 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 recall the Non-bailable warrant issued against petitioner/2nd accused in L.P.5/2009 in S.C.No.613/2003 by the Hon'ble Asst.Sessions Court, Thiruvalla and to direct the court below to enlarge the petitioner on bail on the date of his appearance itself upon application to that effect, subject to stringent conditions, for the ends of justice." 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 will not be considered on the same day and he will be Crl.M.C.No.4314 of 2014 :

3. : remanded to custody.

5. The petition was opposed by the Public Prosecutor on the ground that the petitioner is an absconding accused.

6. It is an admitted fact that the petitioner the second accused in L.P.No.05/2009 in S.C.No.613/2003 pending before the Assistant Sessions Court, Thiruvalla alleging offences under Sections 447, 294(b), 308 read with Section 34 of Indian Penal Code. Earlier, the petitioner had been enlarged on bail and later, he did not appear and so, the learned Assistant Sessions Judge has issued non bailable warrant against the petitioner. The court below, after continuous issuance of warrant against the petitioner, has split up his case and then transferred the case to register of long pending cases and it is now pending as L.P.No.05/2009. 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, filed by the Crl.M.C.No.4314 of 2014 :

4. : accused persons on their surrender and 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 Assistant Sessions Court, Thiruvalla and moves for recalling the warrant and for releasing him on bail in L.P.No.05/2009 (Crime No.78/2003 of Koipuram Police Station) now pending before that court, then, the learned Magistrate is directed to consider and dispose of the bail application after hearing the Additional 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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