

Thomas Vs. State of Kerala

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Court : Kerala

Decided On : Aug-22-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 22D DAY OF AUGUST 2014 31ST SRAVANA, 1936 OP(Crl.).No. 81 of 2014 (Q) ----- CRL. MP. NO.2497/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PERINTHALMANNA. PETITIONER(S): ----- THOMAS, S/O.SEBASTIAN, CHETTANIYIL HOUSE, PULPALLY POST, S. BATHERY TALUK, WAYANAD. BY ADVS.SRI.M.P.ASHOK KUMAR, SRI.P.C.GOPINATH. RESPONDENT(S): ----- STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN:

682. 031. BY PUBLIC PROSECUTOR SMT.P.MAYA. THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 22-08-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. OP(Crl.).No. 81 of 2014 (Q) APPENDIX PETITIONER'S EXHIBITS:- EXT.P1: THE PHOTOCOPY OF THE DOCUMENT DATED 02-07-2012. EXT.P2: PHOTOCOPY OF THE EXCHANGE

AGREEMENT DATED2910/2012. EXT.P3: THE PHOTOCOPY OF THE EXCHANGE AGREEMENT DATED2712/2012. EXT.P4: THE PHOTOCOPY OF THE APPLICATION DATED1607/2013. EXT.P5: PHOTOCOPY OF THE

ORDER

DATED2907/2013 IN CRL.M.P. NO.2497/13 IN CRIME NO.285/13. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE rs. K. Ramakrishnan, J.

===== O.P.(Criminal).No.81 of 2014
===== Dated this, the 22nd day of August, 2014.

JUDGMENT

This is an application filed by the petitioner challenging the order passed in Crl.M.P.No.2497/2013 of Judicial First Class Magistrate Court, No-II, Perinthalmanna under Article 227 of Constitution of India.

2. It is alleged in the petition that petitioner wanted to sell the property and a real estate agent approached him and offered to exchange land with a house with petitioner's property. Petitioner agreed to exchange his property and an agreement of exchange was executed. Later, both parties agreed to rescind from their agreement due to some defects noticed in the title of the property agreed to be transferred to the petitioner. The original title deed of the petitioner's property Ext.P1 was handed over to Shri.Hamsa for execution of Ext.P3 agreement as one Majeed was interested to purchase the petitioner's property and he wanted to get legal opinion regarding the same from an advocate at Malappuram, but he did not return the original Ext.P1 agreement on the date of rescission of the contract. Shri.Hamsa had not collected his O.P.(Criminal).No.81 of 2014 :

2. : document from Majeed. The police have now seized petitioner's document No.3285/12 with such other documents from Majeed in connection with Crime No.285/13 registered against Majeed under Section 17 & 18 of Kerala Money Lenders Act. He had no dealing with Majeed. He filed Ext.P4 petition before the Judicial First Class Magistrate, Perinthalmanna under Section 451 of Code of

Criminal Procedure for release of his document. But, that was dismissed by Ext.P5 order which is challenged by the petitioner by filing this petition.

3. On the basis of the allegations in the petition, this court has called for a report from the concerned court and it is seen from the report that evidence in this case has already been started. So, considering the fact that evidence has already been started, this court asked the Counsel for the petitioner as to whether he will be satisfied by giving direction to the magistrate to consider his application later after the disposal of the case, the Counsel for the petitioner submitted that, that can be recorded and the petition can be closed. So, considering the fact that the evidence has already been started, this court feels that it is not proper at this stage to return the original document as even if the original document is given as O.P.(Criminal).No.81 of 2014 :

3. : interim custody, they will have to return the same, if it is required at the time of evidence. So, this court feels that the petition can be disposed of as follows: The Judicial First Class Magistrate, No-II, Perinthalmanna is directed to expedite disposal of the case C.C.No.721/13 pending before that court as expeditiously as possible at any rate within three months from the date of receipt of the order and after the disposal of the case, if the petitioner files an application for return of the document, then, the learned magistrate is directed to consider and dispose of that application as far as possible on the date of filing of the application itself after hearing the Assistant Public Prosecutor of that court in accordance with law. With the above direction and observation, the petition is disposed of. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

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