

Remesh Vs. State of Kerala1

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Court : Kerala

Decided On : Sep-30-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Remesh

Respondent : State of Kerala1

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID TUESDAY, THE 30^H DAY OF SEPTEMBER 2014 8TH ASWINA, 1936 CrI.MC.No. 5537 of 2014 () ----- AGAINST SC5752012 of ADDITIONAL SESSIONS COURT, IRINJALAKUDA CRIME NO. 140/2013 OF VARANDARAPPALLY POLICE STATION , TRISSUR PETITIONER/IST AND 5^H ACCUSED: ----- 1. REMESH AGED 43 YEARS S/O RAMAKRISHNAN, KUDAMATTIL HOUSE, P.O. KONNAKKUZHY KONNAKKUZHY DESOM, PARIYARAM VILLAGE THRISSUR DISTRICT.

2. SHAJI AGED 42 YEARS S/O RAGHAVAN, THAYYIL HOUSE, P.O. KONNAKKUZHY KONNAKKUZHY DESAM, PARIYARAM VILLAGE THRISSUR DISTRICT. BY ADVS. SRI. P. G. SURESH SMT. SINDHU HARIKRISHNAN SRI. RAJAN VISHNURAJ SRI. V. HARISH RESPONDENT/COMPLAINANT: ----- STATE OF KERALA REPRESENTED BY THE DETECTIVE INSPECTOR, CBCID THRISSUR,

THROUGH THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON3009-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 5537 of 2014 () ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE A1: THE TRUE COPY OF THE FIR IN CRIME NO.140/2003 OF VARANDARAPPILLY POLICE STATION. ANNEXURE A2: THE TRUE COPY OF THE FINAL REPORT FILED BY THE CBCID AFTER THE INVESTIGATION BEFORE THE HONOURBALE JUDICIAL FIRST CLASS MAGISTRATE COURT, IRINJALAKUDA WHICH WAS NOW NUMBERES AS S.C.NO.575/12. RESPONDENT(S)' EXHIBITS ----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ CrI.M.C No.5537 of 2014 ~~~~~ Dated this the 30th September, 2014

## ORDER

The petitioners herein are accused Nos.1 and 5 in S.C No.575 of 2012 before the Additional Sessions Court, Irinjalakuda. The learned Additional Sessions Judge has scheduled the case for trial from 6.10.2014 to 7.11.2014. The petitioners seek a direction from this Court under Section 482 of Cr.P.C to interfere and direct the court to re- schedule the trial on the ground that they or their counsel will not get sufficient time to study the case and to get prepared for trial.

2. The relief as sought by the petitioners cannot be granted by this Court under Section 482 of Cr.P.C. Such a request cannot be entertained by the High Court under Section 482 of Cr.P.C, because making such orders will amount to unnecessary and unauthorised interference in the functions of the trial court. In exercise of inherent powers, such interference cannot be made by the High Court under Section 482 of Cr.P.C. The trial court has CrI.M.C No.5537 of 2014 2 scheduled the case for trial, and the trial must proceed, unless it is felt necessary by the trial court itself that the trial has to be re-scheduled for proper and legal reasons. The petitioners will have to approach the trial court itself with necessary application to reschedule the trial. It is not known why the other accused have no

such grievance. It appears that they are ready to face trial as scheduled. Anyway, if the petitioners have any genuine grievance that effective defence will not be possible without getting sufficient time to study the case, they can very well approach the trial court itself stating their genuine grievance or grounds, which of course will be considered by the trial court. Interference under Section 482 of Cr.P.C to upset the trial court process will, no doubt, be unjust and improper. For proper reasons, the trial court can very well adjourn the trial or reschedule the trial. It depends upon the grievance or the ground raised by the defence. If the court finds that justice would be denied to the accused, if trial is not re-scheduled as requested by the accused, the court can very well consider the request and pass necessary orders. Crl.M.C No.5537 of 2014 3 In the result, this Crl.M.C is closed without prejudice to the right of the petitioners to approach the trial court itself with necessary application containing proper grounds, to have the trial re-scheduled. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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