

Vasudevan Vs. State of Kerala

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Court : Kerala

Decided On : Oct-21-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Vasudevan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID TUESDAY, THE 21ST DAY OF OCTOBER 2014 29TH ASWINA, 1936 CrI.MC.No. 4773 of 2014 () ----- AGAINST CC4122014 of J.M.F.C.-II, MANANTHAVADY CRIME NO. 18/2014 OF KALPETTA EXCISE CIRCLE OFFICE , WAYANAD PETITIONER(S)/ACCUSED 1 & 2: ----- 1. VASUDEVAN AGED 55 YEARS S/O.PATHMANABHANAN, PARAKKAN HOUSE, KANIYAMPATTA VILLAGE, VYTHIRI TALUK WAYANADU DISTRICT.

2. P.B.PRABHAKARAN AGED 54 YEARS S/O.PATTANADAN BAPPU, THULASIPRABHA HOUSE MANATHANA VILLAGE, THALASSERY TALUK, KANNUR DISTRICT. BY ADV. SRI.MATHEW KURIAKOSE RESPONDENT(S)/STATE: ----- STATE OF KERALA (CR NO.18/2014 OF KALPETTA EXCISE CIRCLE OFFICE) REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P THIS CRIMINAL MISC. CASE

HAVING BEEN FINALLY HEARD ON 21-10-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 4773 of 2014 ()
----- APPENDIX PETITIONER(S)' EXHIBITS
----- ANNEXURE A : COPY OF CRIME AND OCCURRENCE REPORT AND FURTHER PROCEEDINGS IN CR182014 OF KALPETTA EXCISE CIRCLE OFFICE, WAYANAD DISTRICT. ANNEXURE B : COPY OF CERTIFICATE OF CHEMICAL ANALYSIS DT.20-11-2013 ISSUED BY THE REGIONAL CHEMICAL EXAMINATION LABORATORY, KOZHIKODE. ANNEXURE C : COPY OF CHEMICAL ANALYSIS REPORT OF B SAMPLE IN CR182014 OF KALPETTA EXCISE CIRCLE OFFICE. ANNEXURE D : COPY OF FINAL REPORT IN OR182014 OF EXCISE OFFICE, KALPETTA. RESPONDENT(S)' EXHIBITS ----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ CrI.M.C No.4773 of 2014 ~~~~~ Dated this the 21st October, 2014

## ORDER

The petitioners herein are the two accused in C.C No.412 of 2014 of the Judicial First Class Magistrate Court-II, Mananthavady. The Excise Inspector of Kalpetta brought the said prosecution on the allegation that starch was detected on analysis of the toddy sample collected from the accused. Prosecution was initiated under Sections 57 (a) and 56 (b) of the Kerala Abkari Act. Pending the prosecution, the second sample collected by the Excise Inspector was forwarded for analysis at the instance of the accused. Now there is report of analysis that on analysis the second sample was found not containing any quantity of starch. The petitioners seek orders quashing the prosecution on the ground that in view of the report of second analysis, the prosecution cannot proceed.

2. On hearing both sides, I find that this prosecution cannot proceed and cannot be sustained because the second sample collected by the Excise CrI.M.C No.4773 of 2014 2 Inspector was found not containing any quantity of starch on analysis. The very object of collecting a second sample is to have it analysed. The accused will get the benefit of report of analysis. Now it stands proved that the sample of

toddy collected from the accused was found not containing starch on analysis and on this ground the prosecution can be quashed. In the result, this petition is allowed. The prosecution against the petitioners in C.C No.412 of 2014 of the Judicial First Class Magistrate Court-II, will stand quashed under Section 482 of the Code of Criminal Procedure, and the petitioners will stand released from prosecution. The bail bond, if any, executed by the petitioners will stand discharged. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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