

P. Manjunatha Vs. State of Kerala rep. by Pulic Prosecutor and Others

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Court : Kerala

Decided On : Nov-30-2015

Judge : B. Kemal Pasha

Appeal No. : Crl. MC. No. 7410 of 2015

Appellant : P. Manjunatha

Respondent : State of Kerala rep. by Pulic Prosecutor and Others

Judgement :

1. PW1, who is the son of the deceased in S.C.No.173/2009 of the Additional Sessions Court-I, Kasaragod, filed Crl.M.P.No.3062/2015 before the court below under Section 91 read with Section 311 Cr.P.C. seeking the production of some documents and the recalling of some witnesses for examination. Through Annexure-II order, the court below has dismissed Annexure-I Crl.M.P.

2. It is true that the court below has permitted the petitioner to engage an Advocate of his choice for assisting the prosecution under the proviso to Section 24(8) Cr.P.C. As to the manner in which such a pleader, who is engaged on the application of the defacto complainant should act, are contained in Section 301(2) Cr.P.C. If any such private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor, and may, with the permission of the Court, submit written

arguments after the evidence is closed in the case. The provision is very clear that apart from submitting a written argument, after the evidence is closed in the case, that too with the permission of the Court, the pleader so instructed, can only act under the directions of the Public Prosecutor. That means, such a pleader or a party, cannot file any application, other than the written arguments in the matter. Matters being so, the Crl.M.P filed before the court below is not maintainable and therefore, the dismissal of the said Crl.M.P. by the court below cannot be found fault with.

3. It is high time to think that some more provisions are to be added to the Code of Criminal Procedure in such matters, especially when a private party aggrieved can file an appeal against acquittal. In such an appeal, of course, the shortcomings of the prosecution, inefficiency of the prosecution, as well as the request of this kind forwarded by the aggrieved person, are valid grounds. In such case, some more powers have to be given to the pleaders being appointed by the parties in the matter under the proviso to Section 24(8) Cr.P.C. As things stand now, when any other interference or intervention is barred by the provisions contained under Section 301(2) Cr.P.C., the present, Crl.M.C. is devoid of merits, and is only to be dismissed, and I do so.

In the result, this Crl.M.C. is dismissed.

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