

**Gracy Thomas Vs. State of Kerala, represented by The Govt. Pleader/Public Prosecutor and Others**

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**Court : Kerala**

**Decided On : Sep-28-2015**

**Judge : B. Kemal Pasha**

**Appeal No. : WP (C) No. 28606 of 2015 (A)**

**Appellant : Gracy Thomas**

**Respondent : State of Kerala, represented by The Govt. Pleader/Public Prosecutor and Others**

**Judgement :**

1. The husband of the petitioner is the accused in S.C.No.176/2004 of the Sessions Court, Thiruvananthapuram, registered for the offences punishable under Sections 55(a) and 8 (1) and (2) of the Abkari Act.

2. According to the petitioner, the accused is suffering from 80% disability and has become paralytic. It is also the case of the petitioner that the accused cannot understand any proceedings in court and is incapable of defending the case. It has been pointed out that he suffers from dementia and impaired cognition. The consultant physician of the General Hospital, Neyyattinkara has reported that the petitioner suffers from dementia and impaired cognition with 50% neurological disability. The learned counsel for the petitioner has pointed out that last time the

accused was taken to the court by an ambulance and immediately he was enlarged on bail also. Of course, for framing charges, the presence of the accused is required. For all other postings of the case, the court below shall dispense with the personal appearance of the accused.

3. On going through the facts and circumstances of the case, it seems that the procedure contemplated under Section 318 Cr.P.C. have to be complied with in this case. If the proceedings result in a conviction, the court below shall forward the entire proceedings to this Court with a report of the circumstances of the case under Section 318 Cr.P.C. With the said direction, this Writ Petition is disposed of.

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