

Deepu vs State of Kerala

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Court : Kerala

Decided On : Mar-28-2025

Judge : Honourable Mr. Justice G.Girish

Appeal No. : Crl.MC/210/2020

Appellant : DEEPU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE G.GIRISH FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947 CRL.MC NO. 210 OF 2020 AGAINST THE ORDER/JUDGMENT DATED IN CC NO.526 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,PAYYANNUR PETITIONERS: DEEPU AGED 36 YEARS S/O.O.K.PRABHAKARAN, O.K.HOUSE, KOTTY, PAYYANNUR, KANNUR DISTRICT. BY ADV M.V.AMARESAN RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN- 682031. 2 GLORY, AGED 72 YEARS W/O.STEPHEN, PLAVILA VADAKATHIL HOUSE, KURISUMUKKU, RAMANTHALI P.O., KANNUR DISTRICT, PIN- 670308. BY ADVS. KALEESWARAM RAJ THULASI K. RAJ(K/000814/2015) CHINNU MARIA

ANTONY(K/3363/2022) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

G. GIRISH., J.

----- Dated
this the 28th day of March, 2025

JUDGMENT

No representation from the petitioner. This petition is

filed by the 2nd accused in C.C. No.526/2019 on the files of the Judicial First Class Magistrate Court, Payyannur, a case which arose out of a protest complaint filed by the 2 nd respondent, for quashing the proceedings in the said case. The main ground stated is that the petitioner was abroad on the day when the alleged incident is said to have taken place.

2. Heard learned counsel for the 2 nd respondent and the learned Public Prosecutor representing the State of Kerala.

3. The petitioner is facing prosecution in C.C.No.

447,341,323 and 506(ii) read with Section 34 IPC. Obviously, the procedures before the learned Magistrate are under Chapter XIX of the Code of Criminal Procedure under Part B dealing with the cases instituted otherwise than on police report. The petitioner could very well raise the contention of alibi, which he had raised in this petition, before the Trial Court at the appropriate stage, when the learned Magistrate proceeds with the framing of charges. It is not possible for this Court to invoke the inherent powers under Section 482 Cr.P.C., and embark upon an enquiry as to whether the petitioner was abroad at the relevant time, when the offence alleged took place. Therefore, the prayer in this petition to quash the proceedings in C.C. No. 526/2019 on the files of the Judicial First Class Magistrate Court, Payyannur, cannot be allowed. In the result, the petition stands dismissed without prejudice to the right of the petitioner to raise all the contentions before the

Trial Court at the appropriate stage. Sd/- G. GIRISH , JUDGE sjb/28.03.25
APPENDIX OF CRL.MC 210/2020 PETITIONER ANNEXURES ANNEXURE 1
TRUE COPY OF THE PRIVATE COMPLAINT DATED 02.08.2018 FILED BY THE
2ND RESPONDENT AGAINST THE PETITIONER BEFORE THE HON'BLE
JUDICIAL FIRST CLASS MAGISTRATE, PAYYANUR AS C.M.P. 5703/2018.

ANNEXURE 1(A) TRUE COPY OF ORDER DATED 22.05.2019 IN C.M.P
5703/2018 IN C.C. 526/2019 PASSED BY THE HON'BLE JUDICIAL FIRST
CLASS MAGISTRATE, PAYYANUR. ANNEXURE 2 TRUE COPY OF
COMPLAINT DATED 24.10.2017 FILED BY THE 2ND RESPONDENT AGAINST
THE PETITIONER BEFORE THE PAYYANUR POLICE AS CMP 7957/2017.
ANNEXURE 3 TRUE COPY OF REFERENCE NOTICE DATED 20.07.2018
UNDER SECTION 173 OF CR.PC, FILED BY PAYYANNUR POLICE IN
ANNEXURE 2. ANNEXURE 4 TRUE COPY OF RELEVANT PAGE OF THE
PASSPORT OF THE PETITIONER.

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