

John, vs State of Kerala,

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Court : Kerala Orders

Decided On : Mar-26-2025

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/4601/2022

Appellant : JOHN,

Respondent : State of Kerala,

Judgement :

2025:KER:2567

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN
WEDNESDAY, THE 26TH DAY OF MARCH 2025 / 5TH CHAITHRA,
1947 CRL.MC NO. 4601 OF 2022 CRIME NO.162/2017 OF CRIME
BRANCH, THIRUVANANTHAPURAM, Thiruvananthapuram SC
NO.1033 OF 2022 OF ADDITIONAL SESSIONS COURT.-TRIAL OF
ABKARI ACT CASES, NEYYATTINKARA PETITIONER/ACCUSED
NO.6: JOHN, AGED 51 YEARS S/O. CHELLAPPAN, KURENPARA
VEEDU, PANNIMALA, KOOTHALI P.O, THIRUVANANTHAPURAM, PIN
695 505. (THE ADDRESS OF THE PETITIONER IS WRONGLY
STATED IN THE FINAL REPORT AS PRASANTH HOUSE,

KULAVIYOD, KULATHUMMAL VILLAGE, KATTAKKADA, THIRUVANANTHAPURAM DISTRICT, PIN 695 572). BY ADVS. M.T.SURESHKUMAR R.RENJITH SMITHA PHILIPOSE MANJUSHA K SREELAKSHMI SABU RESPONDENT/STATE: STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN 682 031. SRI. M.C. ASHI, PP. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 4601 OF 2022 2

ORDER

Petitioner is the 6th accused in Crime No.162 of 2017 of the Crime Branch, Thiruvananthapuram, now pending as S.C No.1033 of 2022 on the files of the Additional Sessions Court, Neyyattinkara, wherein the petitioner is facing charges for offences punishable under Sections 167 and 395 r/w Section 120B of the Indian Penal Code.

2. The petitioner was a Circle Inspector of Police at the

relevant point of time. According to the learned counsel, even accepting the allegations in their entirety, none of the alleged offences will be attracted as far as the petitioner is concerned.

3. On the other hand, the learned Public Prosecutor asserts that enough and more evidence is produced by the prosecution.

4. It is evident that for answering the contentions, the evidence will have to be appreciated. Such course of action is not to be adopted while exercising the inherent power under CRL.MC NO. 4601 OF 2022 3 Section 482 of Cr.P.C. The proper remedy is for the petitioner to move the trial court for discharge, since that court can sift the evidence produced by the prosecution to reach its

conclusion.

The Crl.M.C is hence closed, without expressing anything on merits and by permitting the petitioner to move an application for discharge before the trial court. If such an application is filed without delay, the trial court shall pass orders thereon expeditiously, without insisting on the petitioners personal appearance.

Sd/- V.G.ARUN JUDGE Sru CRL.MC NO. 4601 OF 2022 4 APPENDIX OF CRL.MC 4601/2022 PETITIONER ANNEXURES Annexure 1 TRUE COPY OF THE F.I.R IN CRIME NO. 723 OF 2015 OF NEYYATTINKARA POLICE STATION DATED 18.05.2015. Annexure 2 CERTIFIED COPY OF THE FINAL REPORT IN CR. NO. Annexure 3 TRUE COPY OF THE STATEMENT OF CW 1 RECORDED UNDER SECTION 164/OFF CR.P.C. Annexure A4 TRUE COPY OF THE STATEMENT OF CW3 RECORDED Annexure 5 TRUE COPY OF THE STATEMENT OF CW7 RECORDED UNDER SECTION 164 CR.P.C. Annexure A6 TRUE COPY OF THE STATEMENT OF CW 47 RECORDED Annexure 7 TRUE COPY OF THE JUDGMENT DATED IN 14-3-2022 IN W.P.C NO. 27593 OF 2017 OF THIS HON'BLE COURT.

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