

Sunil vs Mohammed Basheer

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/36/2015

Appellant : SUNIL

Respondent : Mohammed Basheer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946
CRL.MC NO. 36 OF 2015 CRIME NO.174/2007 OF KALIYAR POLICE
STATION, IDUKKI AGAINST THE ORDER/JUDGMENT DATED IN LP
NO.21 OF 2011 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I
(FOREST OFFENCES), THODUPUZHA PETITIONER/THIRD
ACCUSED: SUNIL S/O.SAMBASIVAN, JANAKEE NIVAS,
MANGATTUR KARAM MANGATTUR VILLAGE, KOLLAM TALUK, NOW
RESIDING AT V.V.NIVAS, EDAKKULANGARA P.O.,
KARUNAGAPPALLY, KOLLAM DISTRICT, PIN - 691 562. BY ADVS.
SMT.SARITHA THOMAS SRI.SAJEEVAN KURUKKUTTIYULLATHIL

RESPONDENTS/COMPLAINANT & STATE: 1 MOHAMMED BASHEER S/O.KOCHU THAMPI RAWTHER, THOTTUNGAL HOUSE, VANNAMPURA KARA, VANNAMPURA VILLAGE, THODUPUZHA TALUK, VANNAMPURAM P.O. - 685 582. 2 STATE OF KERALA THROUGH THE SUB INSPECTOR OF POLICE, KALIYAR, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. 3 DEPUTY SUPERINTENDENT OF POLICE THODUPUZHA - 685 584. BY ADV. SANGEETHARAJ N.R., PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Dated this
the 31st day of July, 2024

ORDER

This Criminal Miscellaneous Case is filed to quash the proceedings against the petitioner which is pending as L.P. No.21/2011 before the Judicial First Class Magistrate Court, Thodupuzha.

2. When this CrI.MC came up for

consideration, this Court directed the Registry to get a report from the learned Magistrate. From the report, it is clear that, other accused except the petitioner surrendered before the court and the case is compounded against them and they were acquitted under Section 320(8) Cr.P.C. The warrant is pending against the petitioner for the last 10 years and the petitioner refused to appear before the trial court.

3. This Court need not exercise the

discretionary jurisdiction under Section 482 Cr.P.C. to an absconding accused. The petitioner is free to surrender before the trial court and file a discharge petition

before the trial court. If such a discharge petition is filed, after surrendering before the trial court, the learned Magistrate will consider the same and pass appropriate orders, in accordance with law. With the above observation, this Criminal Miscellaneous Case is disposed of. All the contentions raised by the petitioner in this Criminal Miscellaneous Case are left open. Forward a copy of this order to the trial court. Sd/- P.V.KUNHIKRISHNAN JUDGE nvj APPENDIX OF CRL.MC 36/2015 PETITIONER ANNEXURES

ANNEXURE A1: TRUE COPY OF THE COMPLAINT DATED 21/07/2014 FILED BY THE 1ST RESPONDENT AS CMP NO. 13382 OF 2007. ANNEXURE A2: TRUE COPY OF THE FIRST INFORMATION REPORT NO. ANNEXURE A3: THE FINAL REPORT DATED 25/11/2007 ALONG WITH THE STATEMENTS RECEORDED UNDER SECTION 161 OF CRPC AND THE MAHAZAR DATED RESPONDENT. ANNEXURE A4: TRUE COPY OF THE

ORDER DATED 02/03/2010 OF JUDICIAL

FIRST CLASS MAGISTRATE COURT-I, THODUPUZHA. RESPONDENTS EXHIBITS: NIL //TRUE COPY// PA TO JUDGE

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