

Satish Kumar vs State of Kerala

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Court : Kerala

Decided On : Jul-30-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/1163/2015

Appellant : Satish Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 30TH DAY OF JULY 2024 / 8TH SRAVANA, 1946
CRL.MC NO. 1163 OF 2015 CRIME NO.1723/2011 OF ERNAKULAM
CENTRAL POLICE STATION, ERNAKULAM AGAINST THE
ORDER/JUDGMENT DATED IN CC NO.293 OF 2013 OF CHIEF
JUDICIAL MAGISTRATE, ERNAKULAM PETITIONER/ACCUSED:
SATISH KUMAR AGED 48 YEARS S/O. A.RAVINDRANATH,
PADMALAYAM HOUSE, SANNITHI ROAD, RAVIPURAM, KOCHI-682
016, ERNAKULAM DISTRICT. BY ADV. SRI.RAJIT
RESPONDENT/STATE:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031. 2 USMAN
MUHAMMED HARIS S/O. LATE SAYED USMAN, MANAGER,
SECURITY, ABAD GROUP, ERNAKULAM - 682 035. 3 ARUN SHEKAR
AGED 39 YEARS S/O. CHANDRASEKHAR, MATHURAPILLI VEED,
PALACE WARD,

ALAPPUZHA DISTRICT - 688 001.(DELETED AS PER ORDER

DTD.13.2.2024 IN CRL MA 1/2024 IN CRL MC 1163/2015) BY ADV.
SRI.RENJITH.T.R, SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC.
CASE HAVING COME UP FOR ADMISSION ON 30.07.2024, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Dated this the 30th
day of July, 2024

ORDER

The petitioner is the 2nd accused in C.C. No.293/2013 on the file of Chief Judicial Magistrate Court, Ernakulam arising from Crime No.1723/2011 of Ernakulam Central Police Station. The petitioner is aggrieved by Annexure-D final report. The above case is charge sheeted against the petitioner and other, alleging offences punishable under Sections 381, 420 and 506(i) r/w 34 of IPC.

2. The above case is registered based on Annexure-A complaint filed by the second respondent alleging offences under Sections 378, 379, 420, 463, 464, 477A r/w 34 IPC. The complaint is filed against one Arun Shekar, who is the 1st accused in the above case. It is the case of

the second respondent that, he is the Manager/Security of Abad Group and the 1st accused had been appointed under the firm as Showroom Manager of two retail shops functioning at Bay-Pride Malls, Marine Drive, Ernakulam with effect from

27.07.2009. The 1st accused had given the charge of supervision including local purchase, accounts etc.,. He was also in charge of cashier and was the custodian of sales of the said two showrooms.

3. It is submitted that, the petitioner who was the Manager, Accounts had also the supervisory charge over the said two showrooms and entrusted with the duty of managing the affairs of the

showrooms including supervision of staff, verification of stock and cash etc.,. It is also submitted that the above two persons were in charge of two more outlets at Abad Nucleus Mall, Maradu and there also had the same duties as mentioned above. It is the case of the second respondent that the 1st accused was also entrusted with the duty to deposit the sales of the said showrooms on the next day in the Bank accounts of the firm without any default. But, it was noticed by the firm that, the 1st accused did not deposit a tune of Rs.41,921/- being the collection of the said showrooms dated 5th and 6th March, 2011. When the 1st accused was questioned, he admitted the fault and confessed that he had taken the amount without the permission or knowledge of the employer for his personal use and the same will be deposited on or before 16.03.2011. The firm, therefore, constrained to verify the stock register and also to do the physical stock verification of the stock of the above said showrooms functioning at Bay-Pride Mall, Ernakulam and Abad Nucleus Mall, Maradu. It is the case of the second respondent that, on verification, it is revealed to the firm that the accused committed a lot of malpractices and irregularities in the showrooms. Hence, this complaint is filed before the court as evident by Annexure-A. Based on Annexure-A, Annexure-B FIR

is registered against the 1st accused. Thereafter, Annexure-D final report is filed against the 1 st accused and the petitioner, who is the 2nd accused. According to the petitioner, even if the entire allegations are accepted, no offence is made out against the petitioner who is the 2nd accused. Even the 2nd respondent has no case that the petitioner is

involved in the alleged misappropriation andmal

petitioner who is the 2nd accused is to be quashed.

4. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor.

5. This Court perused Annexure-A complaint and also Annexure-D final report. The main

allegation is against the 1st accused. Even the 2nd respondent has no case that the petitioner is involved in the case which is clear from Annexure-A. No materials were produced by the prosecution to show that the petitioner is also involved in this case. According to the petitioner, he was working as the Manager, Accounts of M/s. Abad Builders Pvt. Ltd. When the petitioner confronted the 1st accused with regard to the misappropriation or shortfall, the 1st

accused admitted the same. Thereafter, according to the petitioner, he conducted a detailed verification and found that there were lot of irregularities in the

maintenance of stock. It is the case of the petitioner that, when the employer initiated enquiry into the irregularities committed by the 1st accused, the 1st accused left the job and without informing the employer absconded from the job. Hence, Annexure-A complaint was filed by the 2nd respondent against the 1st accused.

6. I think there is force in the argument of the petitioner. From the available materials there is nothing to show that the petitioner is involved in this case. But, I make it clear that, the allegation

against the 1st accused is to be c

petitioner can be closed. Therefore, this Criminal Miscellaneous Case is allowed. All further proceedings against the petitioner who is the 2nd accused in C.C. No.293/2013 on the file of the Chief Judicial Magistrate Court, Ernakulam arising from Crime No.1723/2011 of Ernakulam Central Police Station are quashed. Sd/-
P.V.KUNHIKRISHNAN JUDGE nvj/DM APPENDIX OF CRL.MC 1163/2015
PETITIONER ANNEXURES

ANNEXURE A : COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT AGAINST THE 3RD RESPONDENT. ANNEXURE B : COPY OF THE FIR REGISTERED BY THE ERNAKULAM CENTRAL POLICE STATION AGAINST THE 3RD RESPONDENT. ANNEXURE C : COPY OF THE CERTIFICATE ISSUED BY THE ABAD BUILDERS PVT.LTD., DTD.20.4.2011. ANNEXURE D : COPY OF THE CHARGE SHEET FILED BY THE ERNAKULAM CENTRAL POLICE. ANNEXURE E : COPY OF THE LETTER WRITTEN AND SIGNED BY THE 3RD RESPONDENT.

RESPONDENTS EXHIBITS: NIL //TRUE COPY// PA TO JUDGE

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