

Prasad 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/4108/2017

Appellant : Prasad

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. 4108 OF 2017 CRIME NO.144/2017 OF Chavakkad Police
Station, Thrissur AGAINST THE ORDER DATED 16.05.2017 IN CRMP
NO.2283/2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS -
III,THRISSUR PETITIONER/COMPLAINANT: PRASAD S/O
KUNJU,THALIYIL HOUSE,PALAYOOR, GURUVAYOOR
VILLAGE,P.O.CHAVAKKAD, THRISSUR DISTRICT. BY ADV SRI.RAJIT
RESPONDENTS/STATE & ACCUSED:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA. 2 M.K.RAMESH SUB INSPECTOR OF
POLICE, CHAVAKKAD,P.O,CHAVAKKAD,THRISSUR DISTRICT. 3
LOFFY RAJI CIVIL POLICE STATION,CHAVAKKAD POLICE
STATION,P.O.CHAVAKKAD,THRISSUR DISTRICT. BY ADVS. PUBLIC
PROSECUTOR SRI.SANGEETHARAJ N.P. THIS CRIMINAL MISC.
CASE HAVING BEEN FINALLY HEARD ON 30.07.2024, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Crl.M.C. No.4108 of 2017
----- Dated this the 30th day of July, 2024

ORDER

This criminal miscellaneous case is filed to quash Annexure-B order passed by the Judicial First Class Magistrate Court-III, Thrissur. Petitioner is the complainant in Crl.M.P. No.2283/2017. The offences alleged are under Sections 341, 323 and 354 read with Section 34 of the Indian Penal Code.

2. The learned Magistrate passed Annexure-B order

stating that, from the facts, sanction under Section 197 Cr.P.C. is necessary, and therefore the case was posted for producing sanction. The counsel for the petitioner submitted that no sanction is necessary because there is no nexus between the act of the accused and the official duty. It is also submitted by the counsel that when the court granted bail, the accused in this case was picked up. According to the petitioner, he was arrested violating the bail order.

3. I do not want to make any observation about these

things. I am of the considered opinion that whether a sanction under Section 197 Cr.P.C. is necessary in the factual situation is to be reconsidered by the learned Magistrate after giving an opportunity of hearing to the petitioner. To facilitate the

learned Magistrate to pass a fresh order, Annexure-B can be set aside. Therefore, this Criminal Miscellaneous Case is allowed with following directions:

1. Annexure-B is set aside.

2. The Judicial First Class Magistrate Court-III,

Thrissur is directed to hear the petitioner and pass appropriate orders in accordance with law regarding the necessity of sanction under Section 197 Cr.P.C. in the factual situation of the case.

2. All the contentions raised by the petitioner in

this criminal miscellaneous case are left open and the petitioner is free to raise the same before the learned Magistrate. sd/- P.V.KUNHIKRISHNAN JV JUDGE
APPENDIX OF CRL.MC 4108/2017 PETITIONER ANNEXURES ANNEXURE A
TRUE COPY OF THE COMPLAINT WHICH WAS TAKEN ON FILES AS MP
NO.1646/2017

ANNEXURE B THE TRUE COPY OF THE ORDER

DT.16.05.2017 IN CRL.M.P.NO.2283/2017 OF THE LEARNED JFCM
NO.III,THRISSUR.

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