

Suresh Kumar vs State of Kerala

Suresh Kumar vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1290793

Court : Kerala

Decided On : Mar-27-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/7105/2017

Appellant : Suresh Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 27TH DAY OF MARCH 2024 / 7TH CHAITHRA, CRL.MC NO. 7105 OF 2017 AGAINST THE ORDER/JUDGMENT DATED IN ST NO.2141 OF 2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS, RANNI, PATHANAMTHITTA PETITIONER/ACCUSED : SURESH KUMAR, AGED 42 YEARS S/O. DAMODARAN, PUTHENVEETIL, KANNAMANGALAM SOUTH, CHETTIKULANGARA VILLAGE, MAVELIKKARA, ALAPPUZHA DIST. BY ADVS. P.V.ANOOP PHIJO PRADEESH PHILIP(K/1150/2010) NAVJYOTH S.(K/900/2020) ANTONY THOMAS(K/1384/2021) ANJU R S.(K/002806/2022) RESPONDENTS/STATE :

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031. 2 THE
INSPECTOR LEGAL METROLOGY DEPARTMENT, RANNI,
PATHANAMTHITTA DISTRICT - 689 645. 3 THE SABARIMALA
DEVASWOM TRAVANCORE DEVASWOM BOARD,
PATHANAMTHITTA P.O., PATHANAMTHITTA - 689 645,
REPRESENTED BY ITS SECRETARY. BY ADVS. SRI.G.BIJU, SC,
TRAVANCORE DEVASWOM BOARD SRI.KRISHNA MENON, SC,
TRAVANCORE DEVASWOM BOARD SRI.S.RAJMOHAN, SC, TDB
SRI. NOUSHAD K. A. (PP)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27.03.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: BECHU KURIAN THOMAS, J
..... Crl.M.C. No.7105 of 2017
..... Dated this the 27th day of March, 2024

ORDER

Petitioner is the accused in S.T.No.2141/2017 on the files of the Judicial First Class Magistrate Court, Ranni. The proceedings are initiated alleging violations of Section 30(a) of the Legal Metrology Act, 2009. According to the complaint filed by the second respondent, the petitioner, who was in charge and responsible for supply of Karpooram, Malar, and Manjal to the Sabarimala Devaswom, had, in the inspection conducted on 06.01.2017 found the products to be less in quantity and thereby committed the offences alleged. Despite the issue of show cause notice, the accused failed to furnish any satisfactory reply. Hence, pursuant to the authorization obtained from the Controller of Legal Metrology, a complaint was lodged before the Judicial First Class Magistrate Court, Ranni.

2. Sri.Anoop P.V., the learned counsel for the petitioner, submitted

that the authority of the Inspector, Legal Metrology, is questionable since it is seen from the complaint itself that he was appointed not by the Government but by the District Collector. It was further submitted that the quantity of products had been

filled by the Devaswom, and the petitioner had no role in the same, and therefore, he could not be prosecuted. According to the learned counsel, the allegations are false and that the materials supplied were verified and inspected by the person in charge of the Devaswom store, and therefore, petitioner cannot be proceeded against.

3. I have heard Sri.S.Rajmohan, the learned Standing counsel for the Travancore Devaswom, as well as Sri.Noushad K.A.,the learned Public Prosecutor.

4. The learned Public Prosecutor, submitted that the allegations are all factual in nature, which requires appreciation of evidence after trial, and therefore, proceedings under Section 482 of Cr.P.C. cannot be entertained.

5. This petition has been pending consideration from 2017 onwards.

The allegation against the petitioner is that he supplied materials less in quantity than what was prescribed. Whether the allegations are true or not is a matter that can be adjudicated only after appreciation of the evidence in a trial. The jurisdiction under Section 482 of Cr.P.C. cannot be invoked when there are disputed

facts.

6. As far as the contention regarding the authority of the officer, who

filed the complaint is concerned, I am of the view that the District Collector is not a person who was appointed the complainant but was only a person who authorized the complainant to inspect the shops during the Sabarimala festival. Appointment of the Legal Metrology Inspector is different from authorizing someone to inspect the shops.

7. Being so, those are all matters that can be adjudicated at the time

of trial. Therefore, reserving the liberty of the petitioner to take up all the contentions in this CrI.M.C. before the trial court, this CrI.M.C. is dismissed. sd/-
BECHU KURIAN THOMAS JUDGE AMV/30/03/2024 APPENDIX OF CRL.MC

7105/2017 PETITIONER ANNEXURES ANNEXURE A1 A TRUE COPY OF THE NOTICE OF THE TRAVANCORE DEVASWOM BOARD DATED 06.06.2015. ANNEXURE A2 A TRUE COPY OF THE LETTER INVITING PETITIONER TO ENTER INTO AGREEMENT BY THE SABARIMALA EXECUTIVE OFFICER DATED 07.11.2016. ANNEXURE A3 A TRUE COPY OF THE AGREEMENT DATED 15.11.2016. ANNEXURE A4 A TRUE COPY OF THE RECEIPT GIVEN TO THE PETITIONER IN LIEU OF SUPPLY OF MATERIALS. ANNEXURE A5 A TRUE COPY EXTRACT OF THE STORE LEDGER BOOK SABARIMALA DEVASWOM STORE. ANNEXURE A6 A TRUE COPY OF THE NOTICE DATED 25.02.2017 GIVEN TO THE PETITIONER. ANNEXURE A7 A TRUE COPY OF REPLY GIVEN BY THE PETITIONER DATED 06.03.2017.

ANNEXURE A8	A TRUE COPY OF THE COMPLAINT PREFERRED BY
MAGISTRATE COURT	RANNI, PATHANAMTHITTA DISTRICT DATED
04.07.2017. TRUE COPY	

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com