

Hamzappa vs State of Kerala

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/7734/2015

Appellant : Hamzappa

Respondent : State of Kerala

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. 7734 OF 2015 CRIME NO.333/2009 OF
PERINTHALMANNA POLICE STATION, MALAPPURAM AGAINST THE
ORDER/JUDGMENT DATED 25.06.2013 IN CC NO.221 OF 2010 OF
JUDICIAL MAGISTRATE OF FIRST CLASS -II,PERINTHALMANNA
PETITIONER/ACCUSED: HAMZAPPA AGED 45 YEARS
S/O.VEEERANKUTTY, CHEENIKKAPARAMB HOUSE, EZHUKKAD
POOTHANNOOR PO, MUNDOOR, 9TH MILE LABOUR SCHOOL,
PALAKKAD DISTRICT BY ADV SRI.JACOB SEBASTIAN
RESPONDENT/COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, REPRESENTING THE
SUB INSPECTOR OF POLICE, PERINTHALMANNA POLICE STATION
2 SHAREEFA D/O.FATHIMA, AGED 36 YEARS, NILAYANIKKAL
HOUSE, ALIPARAMBA AMSOM, VAZHENKADA DESOM,
PERINTHALMANNA TALUK, MALAPPURAM DISTRICT BY ADVS. SRI.
SANGEETHARAJ N.R., PP SRI. G.SREEKUMAR (CHELUR) - R2 THIS
CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD 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 in C.C. No.581/2013 on the file of Judicial First Class Magistrate Court-II, Perinthalmanna.

2. When this Crl.MC came up for

consideration, this Court directed the Registry to get a report from the Judicial First Class Magistrate Court-II, Perinthalmanna. A report is submitted by the learned Magistrate and the same is extracted hereunder: In obedience to the reference cited, I hereby submit the status report of CC.221/2010 on the file of this court for kind consideration.

The final report in the case was filed by the Sub Inspector of Police, Perinthalmanna Police Station against the accused persons (3 in numbers) for offences punishable under Sections 323, 406, 498(A), and 506(i) read with 34 of the IPC in Crime No. 333/09 of that police station. Earlier, the final report in the case was filed before the Court of Judicial

First Class Magistrate-1, Perinthalmanna as CC.525/09 on the file of that court. Thereafter, the case was transferred to this court as per the order of the Chief Judicial Magistrate, Manjeri. On receiving the record, it was taken on file as CC.221/2010. On perusal of the records, it is noted that the Sub Inspector of Police, Perinthalmanna, has filed absconding charges against all the accused when submitting the charge sheet to the court. Subsequently, A2 and A3 appeared, resulting in the case proceeding against them alone. Eventually, A2 & A3 were acquitted under Section 248(1) Cr PC. The case against A1 was

split up and refiled as CC.581/2013 on the file of this court. Thereafter, coercive steps were taken to secure the presence of the accused, but his presence was not obtained, hence the case against A1 was transferred to the LP register as LP 69/14. In this regard, I submit that Hamsappa, the accused No.1 involved in Crime No. 333/09 of Perinthalmanna Police station is absconding; hence, the case against him was transferred to LP register.

3. From the above, it is clear that the petitioner is absconding and the case is included in the long pending register. This Court need not exercise the discretionary jurisdiction to quash the proceedings against a person who is absconding. The petitioner can surrender before the jurisdictional court and pray for discharge. If the petitioner surrender before the court below and file a discharge petition, the learned Magistrate will

consider the same and pass appropriate orders in it, forthwith. With the above observation, this Criminal Miscellaneous Case is disposed of. The Registry will forward a copy of this order to the learned Magistrate, forthwith. Sd/-
P.V.KUNHIKRISHNAN JUDGE nvj APPENDIX OF CRL.MC 7734/2015
PETITIONER ANNEXURES ANNEXURE A1 THE TRUE COPY OF THE FINAL
REPORT IN CRIME NO.333/2009 OF PERINTHALMANNA POLICE STATION
ANNEXURE A2 THE TRUE COPY OF

JUDGMENT DATED JUNE 25, 2013 IN

CALENDER CASE NUMBER 221/2010 OF COURT OF THE JUDICIAL FIRST
CLASS MAGISTRATE II, PERINTHALMANNA RESPONDENTS EXHIBITS: NIL
//TRUE COPY// PA TO JUDGE

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