

Muneer vs State of Kerala

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/3243/2023

Appellant : Muneer

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946 AGAINST THE ORDER/JUDGMENT DATED IN CRL.A NO.165 OF 2014 OF HIGH COURT OF KERALA ARISING OUT OF THE ORDER/JUDGMENT DATED 25.02.2023 IN CRMP NO.409 OF 2023 OF DISTRICT COURT & SESSIONS COURT,KOLLAM PETITIONER/PETITIONER/ACCUSED NO.5 MUNEER AGED 47 YEARS VAISHANTAYYATHU VEEDU, KALADI MURI, PORUVAZHY VILLAGE, KOLLAM DISTRICT, PIN - 690520 BY ADVS. P.M.ZIRAJ IRFAN ZIRAJ VISHNU P.S. MOHAMMED SHEHIN.S.S BIPIN KRISHNAKUMAR ABHIJITH P.A.

RESPONDENTS/RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM, PIN - 682031 *2 THE SUB INSPECTOR OF POLICE POLICE, KOLLAM DISTRICT, PIN-690520 *ADDRESS OF THE RESPONDENT NO.2 CORRECTED AS THE SUB INSPECTOR OF POLICE, SHOORANADU POLICE STATION, KOLLAM DISTRICT, PIN-690520 INSTEAD OF THE SUB INSPECTOR OF POLICE, POLICE, KOLLAM DISTRICT, PIN-690520 AS PER THE

ORDER DATED 25.04.2023 IN CRL.MA.NO.1/2023 IN

CRL.MC.NO.3243/2023. OTHER PRESENT: SRI. NOUSHAD K. A. (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN THOMAS,J ----- Dated this the 31st day of July, 2024

ORDER

Petitioner challenges an order refusing to release his passport that was deposited pursuant to a direction in an

order granting him bail.

2. Petitioner was the accused in S.C.No.400/2012 on

the files of Sessions Court, Kollam. He was tried along with other accused for various offences including Section 302 IPC. Though the trial court initially convicted the petitioner along with other accused for the offence under Section 302 IPC and imposed a sentence of life imprisonment in Crl.Appeal No.116/2014, the conviction for the offence under Section 302 IPC was set aside but confirmed the conviction and sentence for the offence under Section 326 r/w Section 149 IPC and other minor offences. The maximum sentence imposed by the trial court was, rigorous imprisonment for 2 years and to pay a fine of Rs.5,000/- for the offence

under Section 326 IPC. Challenging the aforesaid judgment of this Court, the wife of the victim is stated to have preferred an appeal before the Supreme Court, which is pending consideration.

3. In the meantime, petitioner filed an application for release of his passport which was surrendered pursuant to the initial order granting bail. The learned Sessions Judge

dismissed the said application as per Annexure 6 order

dated 25.02.2023 stating that since the appeal is pending before the Supreme Court, the passport cannot be released. This petition under Section 482 Cr.PC has been preferred challenging the aforesaid order.

4. After hearing the counsel for the petitioner as

well as the learned Public Prosecutor, I am of the view that, since, concededly, an appeal is pending before the Supreme Court against petitioner's acquittal for the offence under Section 302 IPC, preferred by the wife of the victim and taking note of the circumstance that the case revolves around the murder allegedly committed by the accused, it is only appropriate that the petitioner seeks relief in the pending appeal. The wife of the victim, being an aggrieved person could also be heard in such an instance. Hence, I do not find any reason to interfere with the impugned order of the Sessions Court. Accordingly, this petition is dismissed without prejudice to the liberty of the petitioner to file an appropriate application in the pending appeal. Sd/- BECHU KURIAN THOMAS JUDGE bng APPENDIX OF CRL.MC 3243/2023 PETITIONER ANNEXURES ANNEXURE1 TRUE COPY OF THE ORDER OF THIS HONOURABLE COURT DATED 10.5.2011 IN B.A.NO.3010/2011 ANNEXURE2 TRUE COPY OF THE RELEVANT PAGES OF THE

JUDGMENT DATED 17.1.2014 IN S.C.NO.400/2012

ON THE FILE OF SESSIONS COURT, KOLLAM ANNEXURE3 TRUE COPY OF THE RELEVANT PAGES OF COMMON

JUDGMENT OF THIS HONOURABLE COURT DATED

28.6.2019 IN CRL.APPEAL NO.165/2014 ANNEXURE4 TRUE COPY OF THE NOTICE DATED 1.9.2020 ISSUED BY THE HONOURABLE SUPREME COURT OF INDIA IN SLP(CRL)NO.4045-4046/2020 ANNEXURE5 TRUE COPY OF THE RELEVANT PAGES OF PASSPORT OF PETITIONER ANNEXURE6 CERTIFIED COPY OF THE ORDER DATED 25.2.2023 IN CRL.M.P.NO.409/2023 ON THE FILE OF SESSIONS COURT, SESSIONS DIVISION, KOLLAM

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