

Rigesh 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/5608/2018

Appellant : Rigesh

Respondent : State of Kerala

Judgement :

CRL.MC NO. 5608 OF 2018 1

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. 5608 OF 2018 CRIME NO.172/2017 OF Payyoli Police
Station, Kozhikode AGAINST THE ORDER/JUDGMENT DATED IN SC
NO.653 OF 2017 OF DISTRICT COURT & SESSIONS
COURT,KOZHIKODE PETITIONER/S: RIGESH AGED 31 YEARS S/O
KUNHIKELAPPAN PALOLI HOUSE THIKKODI(P. O) KOYILANDY,
KOZHIKODE KOZHIKODE V.R.NASAR NISHIN GEORGE
VIJAYABABU(K/966/2001) HASEENA A.A.(K/003448/2022)
RESPONDENT/S: 1 STATE OF KERALA REP. BY PUBLIC

PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM-31.
ERNAKULAM 2 MAHIJA A.K, AGED 34 YEARS 34 YEARS,
W/O.DINESH, VELLAMKANDY HOUSE, THIKKODI P.O, MELADY VIA,
PAYYOLI, KOZHIKODE., PIN - 673529 PUBLIC PROSECUTOR,
SRI.SANGEETHARAJ NR SMT.K.LASITHA SRI.P.P.HASHICK THIS
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
31.07.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: CRL.MC NO. 5608 OF 2018 2 P.V.KUNHIKRISHNAN, J

----- Crl.M.C. No. 5608 of 2018

----- Dated this the 31st day of July, 2024

ORDER

This Criminal Miscellaneous case is filed to quash the proceedings in SC No. 653/2017 on the file of the District and Sessions Court, Kozhikode arising from Crime No. 172/2017 of Payyoli Police Station. The offences alleged are under Sec, 376 (2)(h) IPC and under Secs. 3(1)(w), 3(2)(v) of the SC/ST (Prevention of Atrocities) Act. According to the petitioner, even if the entire allegations are accepted, no offence is made out against the petitioner.

2. When this Criminal Miscellaneous case came up for

consideration, this Court directed the Registry to get a report from the learned Sessions Judge about the present stage of the case. The learned Sessions Judge reported that the case is in the stage of pre-charge hearing under Sec. 227 Cr.P.C. If that CRL.MC NO. 5608 OF 2018 3 is the case, I am of the considered opinion that the petitioner can file a discharge petition before the trial court and the trial court will consider the same and pass appropriate orders, before proceeding further. Therefore, this Crl.M.C. is disposed of with the following directions. 1) The petitioner is free to file a discharge petition before the trial court within three weeks from the date of receipt of a certified copy of this order. 2) If such a discharge petition is filed, the trial court will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner and Prosecutor concerned. 3) All the contentions raised by the petitioner in this Crl.M.C. are left open and the petitioner is free to raise all those contentions in the discharge

petition before the trial court. sd/- P.V.KUNHIKRISHNAN JUDGE SKS CRL.MC NO. 5608 OF 2018 4 APPENDIX OF CRL.MC 5608/2018 PETITIONER ANNEXURES ANNEXURE I A CERTIFIED COPY OF THE FIR OF CRIME NO.781/2016 OF THE PAYYOLI POLICE STATION, ANNEXURE II CERTIFIED COPY OF THE FIR OF CRIME KOZHIKODE, ANNEXURE III CERTIFIED COPY OF THE 161 STATEMENTS OF THE PROSECUTION WITNESSES OF CRIME ANNEXURE IV CERTIFIED COPY OF THE FINAL REPORT OF CRIME NO.172/2017 OF THE PAYYOLI POLICE STATION, KOZHIKODE.

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