

C V Davis, vs State of Kerala, Represented by the Public Prosecutor,

C V Davis, vs State of Kerala, Represented by the Public Prosecutor,

SooperKanoon Citation : sooperkanoon.com/1314313

Court : Kerala

Decided On : Apr-04-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/2255/2024

Appellant : C V Davis,

Respondent : State of Kerala, Represented by the Public Prosecutor,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 4TH DAY OF APRIL 2024 / 15TH CHAITHRA, CRL.MC NO. 2255 OF 2024 CRIME NO.712/2018 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN CC NO.317 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS -III,KOZHIKODE

PETITIONER/ACCUSED : C V DAVIS, AGED 63 YEARS S/O.VAREED , CHEMMANNOOR HOUSE, POOKODE VILLAGE, PERAKAM P O , THRISSUR DISTRICT, PIN - 680 506. BY ADVS. REBIN VINCENT GRALAN DINESH G WARRIER VIMAL VIJAY RESPONDENT/S: STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR

HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 SRI. T.R. RANJITH (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04.04.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN THOMAS, J
..... Crl.M.C.No.2255 of 2024
..... Dated this the 4th day of April, 2024

ORDER

Petitioner is the sole accused in C.C.No.317/2019 on the files of the Judicial First Class Magistrate Court-III, Kozhikode, arising out of Crime No.712/2018 of Kasaba Police Station. According to the prosecution, on 26.12.2018, due to the rash and negligent driving of the accused, one Smt.Nafeesa sustained injuries, and subsequently, on 24.01.2019 she succumbed to those injuries and thereby committed the offences punishable under Sections 279 and 304(A) of the Indian Penal Code, 1860.

2. Sri.Rebin Vincent Gralan, the learned counsel for the petitioner,

vehemently contended that from the postmortem report itself, it is evident that the deceased died due to the infection caused by the fracture of the thighbone, and therefore, proceedings against the petitioner is an abuse of the process of the court requiring interference under Section 482 of Cr.P.C. It was further submitted that the mahazar and other connected records seized by the prosecution will also show the petitioner is totally innocent.

3. I have heard Sri.Ranjith T.R., the learned Public Prosecutor as well.

4. It is true that the postmortem report reveals that the death was

due to the disseminated infection following the fracture of the thighbone. Whether the injury was caused by accident or whether the same led to the death of the person, and whether the petitioner was the person who was involved in the alleged accident, are all matters which will have to be established in a trial. Recourse to Section 482 of Cr.P.C. on the basis of disputes of a factual nature cannot be entertained. The crime is of the year 2018, and cognizance was taken in 2019. In

all probabilities, the trial would commence soon. Hence, I am of the view that petitioners remedy is to face trial and obtain an adjudication on merit.

5. I find no reason to exercise the inherent powers under Section 482

of Cr.P.C. Since the crime is of the year 2018, I am of the view that the learned Magistrate must take every effort to dispose of C.C.No.317/2019, as expeditiously as possible, in a time-bound manner.

6. Needless to mention, the observations made in this order are

solely for the purpose of disposal of this petition under Section 482 Cr.P.C., and the same shall not have any bearing at the time of trial. sd/- BECHU KURIAN THOMAS JUDGE AMV/05/04/2024 APPENDIX OF CRL.MC 2255/2024 PETITIONER ANNEXURES ANNEXURE A1 A CERTIFIED COPY OF SCENE MAHAZER IN CRIME NO. 712 OF 2018 IN KASABA POLICE STATION, KOZHIKODE DATED 27.12.2018. ANNEXURE A2 A CERTIFIED COPY OF ACCIDENT REGISTER CUM

-WOUND CERTIFICATE OF THE DECEASED PREPARED BY THE MEDICAL OFFICER, MEDICAL COLLEGE HOSPITAL, KOZHIKODE DATED 20.12.2018. ANNEXURE A3 A CERTIFIED COPY OF BODY INQUEST REPORT IN CRIME NO. 712 OF 2018 IN KASABA POLICE STATION, KOZHIKODE DATED 24.12.2018. ANNEXURE A4 A CERTIFIED COPY OF POSTMORTEM REPORT/CERTIFICATE OF DECEASED PREPARED BY MEDICAL OFFICER, MEDICAL COLLEGE HOSPITAL, KOZHIKODE DATED 24.01.2019. ANNEXURE A5 A CERTIFIED COPY OF FIR AND FIS IN CRIME NO. 712 OF 2018 IN KASABA POLICE STATION, KOZHIKODE PREPARED BY SHO DATED 26.12.2018. ANNEXURE A6 A CERTIFIED COPY OF FINAL REPORT IN CRIME NO. 712 OF 2018 IN KASABA POLICE STATION, KOZHIKODE PREPARED BY SHO DATED 30.04.2019. TRUE COPY

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