

Padma Kumar vs State of Kerala

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Court : Kerala Orders

Decided On : Jul-31-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/3198/2024

Appellant : Padma Kumar

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 CC NO.766 OF 2016 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, PETITIONERS/ ACCUSED 1 & 2 : 1 PADMA KUMAR AGED 58 YEARS S/O. GANGADHARAN NAIR, RESIDING AT ATTARATHALA PADMA BHAVAN, PERUMPAZHUTHOOR VILLAGE, PERUMPAZHUTHOOR P.O., 2 NANDA KUMAR AGED 68 YEARS S/O.K.K.C. NAIR, ROADARIKATHU VEEDU, PERUMPAZHUTHOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT, NOW RESIDING AT T.C. 58/165, SAANTHRAM,VANDITHADAM, PACHALLOOR P.O., THIRUVANANTHAPURAM, PIN - 695027

BY ADV R.GOPAN RESPONDENT/ STATE & DEFACTO
COMPLAINANT : 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2
GOPALAKRISHNAN AGED 67 YEARS S/O. CHELLAMMA SAROJINI,
VELANKUDIYIRUNNA PURAYIDAM, THOZHUKKAL DESOM,
PERUMPAZHUTHOOR VILLAGE, SMT. NIMA JACOB, PUBLIC
PROSECUTOR 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.

----- CrI.M.C.No.3198 of 2024 -----
----- Dated this the 31st day of July, 2024 -----

ORDER

Petitioners challenge the proceedings initiated against them in C.C.No.766 of 2016 on the files of the Judicial First Class Magistrate's Court-I, Neyyattinkara. The prosecution alleges commission of offences under Sections 447, 427, 448, 397, 298 and 296 of the Indian Penal Code, 1860. Having heard Sri.Gopan R., the learned counsel for the petitioners as well as Smt.Nima Jacob, the learned Public Prosecutor, I am of the view that this is not a fit case for interference under Section 482 of Cr.P.C. However, petitioners having been served with summons only in 2023, the remedy of a discharge can be explored. Therefore, if the remedy of seeking discharge is available under law to the petitioners, certainly they are entitled to take recourse to the said remedy, notwithstanding the disinclination of this Court to interfere under Section 482 of Cr.P.C. Reserving the aforesaid liberty, this CrI.M.C.is dismissed. Sd/- BECHU KURIAN THOMAS, JUDGE RKM
APPENDIX OF CRL.MC 3198/2024 PETITIONERS' ANNEXURES : Annexure A1
TRUE COPY OF THE CMP 1659 OF 2010 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, NEYYATTINKARA DATED 03/03/2010 Annexure A2
TRUE COPY OF THE STATEMENT OF CW2 Annexure A3 TRUE COPY OF THE
ORDER TAKING COGNIZANCE

DATED 27/08/2016 IN CC NO. 766/2016 OF THE OF JUDICIAL FIRST CLASS MAGISTRATE COURT- I, NEYYATTINKARA Annexure A4 TRUE COPY OF THE ORDER DATED 24/05/1972 IN OA NO 150/1970, IN OA NO 242/1970 AND IN OA NO 243/1970 OF THE ADDITIONAL LAND TRIBUNAL, PERUMKADAVILA Annexure A5 TRUE COPY OF THE PATTAYAM (KUDIKIDAPPU CERTIFICATE) DATED 23/01/1973 ISSUED IN FAVOUR OF KRISHNAN KANI VELAYUDHAN KANI, THE DEFACTO COMPLAINANT'S PREDECESSOR

Annexure A6 TRUE COPY OF THE LOCATION SKETCH Annexure A7 TRUE COPY OF THE THE DISABILITY CERTIFICATE DATED 23/07/2002 WITH 55% DISABILITY Annexure A8 TRUE COPY OF OF THE ORDER DATED 13/12/2010 OF THE RDO, THIRUVANANTHAPURAM Annexure A9 TRUE COPY OF OF THE JUDGEMENT DATED HONOURABLE COURT Annexure A10 TRUE COPY OF THE ORDER DATED 12/06/2017 OF THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM Annexure A11 TRUE COPY OF THE TAX RECEIPT DATED Annexure A12 TRUE COPY OF THE TAX RECEIPT DATED 02.02.1996 OF PERUMPAZHUTHOOR VILLAGE REMITTED BY THE 2ND PETITIONER Annexure A13 TRUE COPY OF THE ORDER DATED 19/12/1990 IN IA 3848/1990 IN OS 783/ 1990 OF THE 1ST ADDITIONAL SUB COURT, THIRUVANANTHAPURAM Annexure A14 TRUE COPY OF THE PLAINT IN OS 260/2022 OF THE 2ND ADDITIONAL MUNSIF COURT, Annexure A15 TRUE COPY OF THE SUMMONS DATED 31/10/2023 ISSUED TO PADMAKUMAR Annexure A16 TRUE COPY OF OF THE SUMMONS DATED

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