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

Sudarshan vs State of Kerala

Sudarshan vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1324375

Court : Kerala

Decided On : Apr-23-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/3756/2024

Appellant : Sudarshan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3790 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.12 OF 2018 OF CHIEF JUDICIAL MAGISTRATE, KOZHIKODE PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT, PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV.SMT. SEETHA S., SENIOR

PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3752/2024, 3756/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3752 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.6 OF 2018 OF CHIEF JUDICIAL MAGISTRATE ,KOZHIKODE PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT., PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV.SMT. SEETHA S., SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3756 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.9 OF 2018 OF CHIEF JUDICIAL MAGISTRATE ,KOZHIKODE PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT, PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT/STATE: STATE OF KERALA REPRESENTED BY THE

PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV.SMT. SEETHA S., SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3764 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.8 OF 2018 OF CHIEF JUDICIAL MAGISTRATE ,KOZHIKODE PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT, PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, KERALA, PIN - 682031 BY ADV.SMT. SEETHA S., SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3767 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.10 OF 2018 OF CHIEF JUDICIAL MAGISTRATE ,KOZHIKODE PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE

DISTRICT, PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV.SMT. SHEEBA THOMAS, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3768 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.11 OF 2018 OF CHIEF JUDICIAL MAGISTRATE ,KOZHIKODE PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT, PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV.SMT. SEETHA S., SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3787 OF 2024 CRIME NO.457/2002 OF KASABA POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.13 OF 2018 OF CHIEF JUDICIAL MAGISTRATE ,KOZHIKODE

PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT., PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031 BY ADV.SMT. SHEEBA THOMAS, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN TUESDAY, THE 23RD DAY OF APRIL 2024 / 3RD VAISAKHA, 1946 CRL.MC NO. 3805 OF 2024 CRIME NO.139/1997 OF MUKKOM POLICE STATION, KOZHIKODE AGAINST THE ORDER/JUDGMENT DATED IN LP NO.37 OF 2005 OF JUDICIAL MAGISTRATE OF FIRST CLASS - II, THAMARASSERY PETITIONER(S)/ACCUSED: SUDARSHAN AGED 64 YEARS PROPRIETOR, CONCORD FINANCE LEASING COMPANY, WHITE LINE BUILDING, KALLAI ROAD, KOZHIKODE, RESIDING AT CHILANKA HOUSE, KOTTULI P.O., NELLIKKODE, KOZHIKODE DISTRICT., PIN - 673016 BY ADV. SHAJIN S.HAMEED RESPONDENT(S)/STATE: STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 BY ADV. SMT. SHEEBA THOMAS, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23.04.2024, ALONG WITH CRL.MC.3790/2024 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

---------- Crl.M.C. Nos.3790, 3787, 3752, 3767, 3768, 3764, 3756 & 3805 of 2024 ---------- Dated this the 23rd day of April, 2024

ORDER

Theses Criminal Miscellaneous Cases are filed under Section 482 of the Code of Criminal Procedure, 1973 (the Code for the sake of brevity).

2. Petitioner, in these Criminal Miscellaneous

Cases, is the same. He is an accused in L.P.Nos.12/2018, 13/2018, 6/2018, 10/2018, 11/2018, Magistrate Court, Kozhikode & L.P.No.37/2005 on the file of the Judicial First Class Magistrate Court-II, Thamarassery. The above cases are charge sheeted against the petitioner inter alia under Section 420 IPC. The above cases are now included in the Long Pending register and a warrant is also pending against the petitioner.

3. The petitioner submits that, he is ready to

surrender before the jurisdictional court. But the apprehension of the petitioner is that, if he surrender before the jurisdictional court, the jurisdictional court may remand him without considering his bail application.

4. The Public Prosecutor submitted that no such

apprehension is necessary and this court may not pass any direction to the lower court to release the petitioner on bail and that is a matter to be decided by the trial court.

5. This court in Vineeth Somarajan @ Ambadi v.

State of Kerala and another (2009 (3) KHC 471) relied on the dictum laid down by another learned Single Judge in Biju S. Praveen v. State of Kerala and Another (2007 (2) KLT 280) considered this point. It will be better to extract the relevant portion of Vineeth Somarajan's case (supra). 14. The apprehension of the petitioner is that if he appears before the Trial Court, he would be remanded to

judicial custody. In Biju v. State of Kerala, 2007 KHC 3436 : 2007 (2) KLT 280 : 2007 (1) KLJ 713 : ILR 2007 (2) Ker. 26 : 2007 (1) KLD 486, Justice A. K. Basheer, after noticing the practice that is being followed by some learned Magistrates (vide paragraph 16) held at paragraph 18 thus:

> '18. As mentioned earlier, Criminal Courts should always be careful while passing orders on bail applications which in effect deal with personal liberty. In cases where the Court decides to send an accused to custody pending trial, it must be ensured that the Court applies its mind judicially and judiciously with particular reference to the facts and circumstances of the case. The mere fact that the accused had failed to respond to a summons or that the Court had to issue non bailable warrant to compel his presence will not ipso facto empower the Criminal Court to remand the accused to custody as a punitive measure when he appears before the Court on his own volition or is produced in execution of the warrant. The bail application that may be moved on his behalf has to be considered and orders should be passed on the same day itself since personal liberty of an accused cannot be curtailed in a whimsical or disdainful manner.' I am in respectful agreement with the dictum laid down in Biju v. State of Kerala.

6. In the light of the above dictum laid down by this

court, I think the apprehension of the petitioner that the jurisdictional court will remand the accused without application of mind is unnecessary. Therefore, these Criminal Miscellaneous Cases are disposed of with the following directions: 1) The petitioner shall surrender before the jurisdictional court within three weeks from today. If an application for bail with advance copy to the prosecutor concerned is filed at the time of surrender by the petitioner, the jurisdictional court shall consider the same and pass appropriate orders in accordance with law, ideally on the date of surrender itself. 2) In order to enable the petitioner to appear before the court below, coercive proceedings pending against the petitioner shall be kept in abeyance for a period of three weeks. Sd/- P.V.KUNHIKRISHNAN JUDGE DM APPENDIX OF CRL.MC 3752/2024 PETITIONER ANNEXURES ANNEXURE-A

PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B CERTIFIED COPY OF THE ADDITIONAL FINAL REPORT IN CRIME NO. 457/2002 OF KASABA POLICE STATION, KOZHIKODE DISTRICT. ANNEXURE-C PHOTOCOPY OF THE JUDGMENT DATED CHIEF JUDICIAL MAGISTRATE, KOZHIKODE. APPENDIX OF CRL.MC 3756/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B CERTIFIED COPY OF THE ADDITIONAL FINAL REPORT IN CRIME NO. 457/2002 OF KASABA POLICE STATION, KOZHIKODE DISTRICT. ANNEXURE-C PHOTOCOPY OF THE JUDGMENT DATED CHIEF JUDICIAL MAGISTRATE, KOZHIKODE. APPENDIX OF CRL.MC 3764/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B CERTIFIED COPY OF THE ADDITIONAL FINAL REPORT IN CRIME NO. 457/2002 OF KASABA POLICE STATION, KOZHIKODE DISTRICT. ANNEXURE-C PHOTOCOPY OF THE JUDGMENT DATED CHIEF JUDICIAL MAGISTRATE, KOZHIKODE. APPENDIX OF CRL.MC 3767/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B CERTIFIED COPY OF THE ADDITIONAL FINAL REPORT IN CRIME NO. 457/2002 OF KASABA POLICE STATION, KOZHIKODE DISTRICT. ANNEXURE-C PHOTOCOPY OF THE JUDGMENT DATED CHIEF JUDICIAL MAGISTRATE, KOZHIKODE. APPENDIX OF CRL.MC 3768/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B PHOTOCOPY OF THE ADDITIONAL FINAL REPORT IN CRIME NO. 457/2002 OF KASABA POLICE STATION, KOZHIKODE DISTRICT. ANNEXURE-C PHOTOCOPY OF THE JUDGMENT DATED CHIEF JUDICIAL MAGISTRATE, KOZHIKODE. APPENDIX OF CRL.MC 3787/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B PHOTOCOPY OF THE JUDGMENT DATED CHIEF JUDICIAL MAGISTRATE,

KOZHIKODE. APPENDIX OF CRL.MC 3805/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE JUDGMENT DATED JUDICIAL 1ST CLASS MAGISTRATE COURT- II, THAMARASSERY. APPENDIX OF CRL.MC 3790/2024 PETITIONER ANNEXURES ANNEXURE-A PHOTOCOPY OF THE ORDER DATED C.C.NO.203/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE. ANNEXURE-B PHOTOCOPY OF THE ADDITIONAL FINAL REPORT IN CRIME NO. 457/2002 OF KASABA POLICE STATION, KOZHIKODE DISTRICT. RESPONDENTS EXHIBITS: NIL //TRUE COPY// PA TO JUDGE

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