

Hima vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-24-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/125/2023

Appellant : HIMA

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 24TH DAY OF JANUARY 2023 / 4TH MAGHA, 1944 CRIME NO.0484/2021 OF Malampuzha Police Station, Palakkad PETITIONER/2ND ACCUSED: HIMA AGED 25 YEARS, D/O V.B.HARIKUMAR, VARANIKALAM VARANI, KADUKKAMKUNNAM P.O, MALAMPUZHA II ,PALAKKAD DISTRICT, PIN - 678651 BY ADVS. SASI M.R. N.P.SILPA SREEKUMAR K.V. KAVYA KRISHNAN S.SAJIT SANAL RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN -

682031 2 SHO MALAMPUZHA POLICE STATION PALAKKAD DISTRICT, PIN - 678651 3 CHANDRAN.A.P AGED 73 YEARS, NANDHANAM HOUSE, PULINELLI ROAD, PALAKKAD, KOTTAYI, PALAKKAD DISTRICT., PIN - 678572 BY ADV PUBLIC PROSECUTOR PP- SRI.NOUSHAD K.A. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24.01.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

----- Dated this
the 24th day of January, 2023

ORDER

Petitioner is the 2nd accused in Crime No.484/2021 of Malampuzha Police Station, Palakkad District, alleging offences punishable under Sections 420, 464, 465, 471 r/w Section 34 of the Indian Penal Code, 1860.

2. A reading of the FIR reveals that defacto complainant, alleges

that accused 1 and 2 had, with intent to deceive him, created forged lease deeds and utilized the same as original and obtained undue advantage by showing the property which was never cultivated, as a land under cultivation and cheated the Government and the defacto complainant by obtaining amounts, not legally due to them and thereby committed the offences alleged.

3. Sri.M.R.Sasi, the learned counsel for the petitioner, contended

that the entire allegations in the FIR are false and petitioner is being unnecessarily proceeded against for ulterior purposes. The learned counsel also submitted that petitioner is highly educated and, due to the pendency of the crime, she has suffered irreparable losses including employment opportunities and it is in such circumstances that she has approached this Court seeking to quash the proceedings.

4. I have heard Sri.Noushad K.A., the learned Public Prosecutor also.

5. On a perusal of the FIR, it is noticed that, allegation of forgery

and cheating have been raised. When such allegations of a serious nature are raised, it is a matter for the police to investigate and arrive at a conclusion. This Court is handicapped, at this stage to enter into a finding regarding the correctness or otherwise of the allegations in the FIR.

6. The scope of interference under 482 of the Cr.P.C. against an

FIR is very limited as held by the Supreme Court in State of Haryana and Others vs Bhajan Lal and Others (1992 Supp (1) SCC 335). Supreme Court has also observed that when an FIR is challenged under Section 482 the test is whether the allegations in the FIR discloses a cognizable offence.

7. On the nature of allegations in the FIR, and bearing in mind the

legal principles mentioned above, I am of the view that this is not a fit case for interference under Section 482 of Cr.P.C. Accordingly, I dismiss this Crl.M.C. Sd/- BECHU KURIAN THOMAS JUDGE AJM/24/1/23 APPENDIX OF CRL.MC 125/2023 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE FIR DATED 16.08.2021 IN CRIME NO 0484/2021 OF MALAMPUZHA POLICE STATION. Annexure A2 TRUE COPY OF THE FIR DATED 16.08.2021 IN CRIME NO 0483/2021 OF MALAMPUZHA POLICE STATION. Annexure A3 TRUE COPY OF THE COMMON ORDER DATED

08.12.2021 IN CRL.M.C. 2193/2021 AND CRL.M.C. 2192/2021 ON THE FILE THE HON'BLE SESSIONS COURT PALAKKAD.

Annexure A4 TRUE COPY OF THE ADHAAR CARD OF THE FIRST ACCUSED. Annexure A5 TRUE COPY OF THE ADHAAR CARD OF THE WIFE OF THE FIRST ACCUSED (MOTHER OF THE PETITIONER) Annexure A6 TRUE COPY OF THE ADHAAR CARD OF THE Annexure A7 TRUE COPY OF THE ELECTION ID CARD OF THE MOTHER OF THE PETITIONER. Annexure A8 TRUE COPY OF THE ELECTION ID CARD OF THE Annexure A9 TRUE COPY OF THE

RATION CARD ISSUED TO THE PETITIONER'S MOTHER. Annexure A10 TRUE COPY OF THE IDENTITY CARD ISSUED TO

PETITIONERS FATHER V.B.HARIKUMAR, FROM THE AKATHETHARA CO-OPERATIVE MILK SUPPLY SOCIETY LTD NO. P 560.

Annexure A11 TRUE COPY OF THE IDENTITY CARD ISSUED TO PETITIONERS MOTHER HEMALATHA, FROM THE AKATHETHARA CO-OPERATIVE MILK SUPPLY SOCIETY LTD NO. P 560. Annexure A12 TRUE COPY OF THE SSLC CERTIFICATE OF THE Annexure A13 TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF THE PETITIONER. Annexure A14 TRUE COPY OF THE DEGREE CERTIFICATE OF THE PETITIONER. Annexure A15 TRUE COPY OF THE MBA COMPLETION CERTIFICATE OF THE PETITIONER. Annexure16 TRUE COPY OF ORDER DATED 05.03.2021 IN I.A 683/2021 IN O.S 124/ 2021 BEFORE THE HON'BLE MUNSIFF'S COURT PALAKKAD //TRUE COPY//

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