

Nidhin vs State of Kerala

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Court : Kerala

Decided On : Nov-24-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/344/2021

Appellant : Nidhin

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 24TH DAY OF NOVEMBER 2023 / 3RD AGRAHAYANA,
CRL.MC NO. 344 OF 2021 CRIME NO.1906/2015 OF Kayamkulam
Police Station, Alappuzha AGAINST THE ORDER/JUDGMENT SC
652/2019 OF ADDITIONAL DISTRICT COURT-II & IST ADDITIONAL
MOTOR ACCIDENT CLAIMS TRIBUNAL , MAVELIKKARA
PETITIONER/S: NIDHIN, AGED 30 YEARS, S/O. LATE BABU,
THARAYIL VADAKKETHIL, CHERAVALLY, KAYAMKULAM,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT. BY ADVS.
R.PADMAKUMAR SRI.NISHIL.P.S.

RESPONDENT/S: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. OTHER PRESENT: SRI RENJITH TR, PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24.11.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

P.V.KUNHIKRISHNAN, J.

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Dated this the 24th day of November, 2023

ORDER

This Crl.M.C is filed to quash the proceedings against the petitioner, who is the 12th accused in SC No.652 of 2019 on the file of the Additional District and Sessions Court-II, Mavelikkara, arising from Crime No.1906 of 2015 of Kayamkulam Police Station, Alappuzha.

2. The counsel for the petitioner submitted that even if the

entire allegations are accepted, absolutely no allegation or overt act is attributed to the petitioner, who is the 12th accused. Hence, the counsel submitted that the proceedings against the petitioner is an abuse of process.

3. After hearing the counsel for the petitioner for some time,

I am of the considered opinion that the petitioner can raise this contention before the trial court by filing a discharge petition, if charge is not framed. If such a discharge petition is filed, the trial -3- Court will consider the same, without insisting the presence of the petitioner. Therefore, this Criminal Miscellaneous Case is disposed of in the following manner:

1. The petitioner is free to file a discharge petition before the trial court, if the charge is not framed, within three weeks from the date of receipt of a stamped certified copy of this order, if charge is not framed.

2. Once such a discharge petition is received, the trial

court will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner and the Prosecutor concerned, within a period of six weeks from the date of receipt of the discharge

3. If a discharge petition is filed as directed above, the presence of the petitioner shall not be insisted by the trial court, till final orders are passed in the discharge

4. All the contentions raised by the petitioner in this

criminal miscellaneous case are left open. sd/- P.V.KUNHIKRISHNAN JUDGE

-4- APPENDIX OF CRL.MC 344/2021 PETITIONER ANNEXURES ANNEXURE A1 A TRUE COPY OF THE FIR IN CRIME NO.1906/2015 OF THE KAYAMKULAM POLICE STATION, ALAPPUZHA DISTRICT. ANNEXURE A2 CERTIFIED COPY OF THE FINAL REPORT DATED 14.07.2018 IN CRIME NO.1906/2015 OF KAYAMKULAM POLICE STATION, ALAPPUZHA DISTRICT. ANNEXURE A3 A TRUE COPY OF THE ORDER IN CRL.M.C.NO.863/2019 OF THIS HONOURABLE COURT, DATED 25.02.2019. ANNEXURE A4 A TRUE COPY OF THE FINAL REPORT IN FIR NO.1906/2015 FILED BY DEPUTY POLICE SUPERINTENDENT, CBCID, ALAPPUZHA ON 30.11.2020. ANNEXURE A5 A TRUE COPY OF THE STATEMENTS OF WITNESSES FILED ALONG WITH ANNEXURE - A4 FINAL REPORT.

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