

Rajan vs State of Kerala

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Court : Kerala

Decided On : Oct-31-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/704/2023

Appellant : RAJAN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA,
1945 CRL.MC NO. 704 OF 2023 CRIME NO.29/2021 OF Ottapalam
Police Station, Palakkad AGAINST THE ORDER/JUDGMENT CC
107/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS - I,
OTTAPPALAM PETITIONER/S: RAJAN, AGED 59 YEARS
S/O.KRISHNASWAMY, KAREKKATTIL HOUSE,
CHERUKKATTUPULAM, PATHIPPARA, VANIYAMKULAM POST,
OTTAPALAM TALUK, PALAKKAD DISTRICT., PIN - 679522 BY ADVS.
R.SREEHARI HAMZA A.V. VIGNESH S. RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA , COCHIN., PIN - 682031 2 THE STATION
HOUSE OFFICER OTTAPALAM POLICE STATION, OTTAPALAM
POST, OTTAPALAM TALUK, PALAKKAD DISTRICT., PIN - 679101 3
JAYARAJAN AGED 48 YEARS S/O.VELAYUDHAN, KAZHANIKKOTTIL
HOUSE, CHERUKKATTUPULAM, PATHIPPARA, VANIYAMKULAM
POST, OTTAPALAM TALUK, PALAKKAD DISTRICT., PIN - 679522
OTHER PRESENT: SRI RENJITH TR, PP THIS CRIMINAL MISC. CASE
HAVING COME UP FOR ADMISSION ON 31.10.2023, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING: -2-

P.V.KUNHIKRISHNAN, J.

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Dated this the 31st day of October, 2023

ORDER

The above Crl.M.C is filed with following prayers:

(i) direct the Judicial First Class Magistrate, Ottapalam to commit for trial, C.C.No.107/2021 (arising out of Crime No.29/2021 of Ottapalam Police Station) pending before it to the Special Court for SC/ST (POA) Act, Mannarkkad for trial along with S.C.No.169/2021 (arising out of Crime No.27 of 2021 of Ottapalam Police Station), in accordance with the dicta laid down by the Honble Supreme Court of India and this Honble Court reported in 1990 SCC (Cri) 638 (Nathilal -Vs- State of U.P) , (2001) 2 SCC 688 (Sudhir and others Vs- State of Madhya Pradesh), 2007 (1) KHC 563 (Abdul Salam C.H -Vs- Sameera and another) and 2016 (2) KHC 564 (Moidotty.K -Vs- Usman and another).

(ii) This Honble Court may be pleased to dispense with the

filing of English Translation of the vernacular document filed in this Crl M.C. on such terms and conditions as this Honble Court may deem fit and proper in the facts and circumstances of the case.

(iii) Grant such other reliefs as this Honble court deem fit and proper in the facts and circumstances of the case. (sic) -3-

2. The main prayer in this Crl.M.C is to direct the Judicial

First Class Magistrate Court -I, Ottappalam to commit CC No.107 of 2021 arising from Crime No.29 of 2021 of Ottappalam police station to the Sessions Court, because the connected case is pending before the Special Court (SC/ST (POA) Act)- Mannarkkad as SC No.169 of 2021.

3. When this Crl.M.C case up for consideration, this Court

directed the registry to get a report from the learned Magistrate about the stage of CC No.107 of 2021. A report is submitted by the learned Magistrate and it will be better to extract the same here: With reference to the above, I may humbly submit that the accused appeared before the court on 11/05/2023. He was granted bail. The copies of prosecution records were served to the accused. The above case stands posted to 31/10/2023 for verification. This is for kind information.

4. In the light of the same, it is clear that the accused already

appeared before the court below and he was released on bail. If that be so, the petitioner can file an application under Section 323 Cr.P.C to commit the case to the Special Court. -4- Therefore, this Crl.M.C is disposed of in the following manner:

1. The petitioner is free to file an application under Section 323 Cr.P.C before the Judicial First Class Magistrate Court-I, Ottappalam within three weeks from today.

2. If such an application is filed as directed above, the

learned Magistrate will pass appropriate orders in it, as expeditiously as possible, at any rate, within three weeks from the date of receipt of the application.

3. Till a decision is taken in that application, if such an application is filed, the trial in Sessions Case No.169 of 2021 pending before the Special Court (SC/ST (POA) Act)- Mannarkkad, shall be deferred.

sd/- P.V.KUNHIKRISHNAN JUDGE
-5- APPENDIX OF CRL.MC 704/2023
PETITIONER ANNEXURES Annexure1 CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.29/2021 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT, DATED 12/01/2021 Annexure2 CERTIFIED COPY OF THE FIRST INFORMATION STATEMENT DATED 11/01/2021 GIVEN BY THE 3RD RESPONDENT IN CRIME NO.29/2021 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT Annexure3 CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 29/2021 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT, SUBMITTED BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT , OTTAPALAM DATED 25/01/2021 Annexure4 CERTIFIED COPY OF THE MEMORANDUM OF EVIDENCE DATED 25/01/2021 SUBMITTED ALONG WITH THE FINAL REPORT IN CRIME NO. 29/2021 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, OTTAPALAM

Annexure5 TRUE COPY OF THE DAILY STATUS DETAILS DATED 21/06/2022 WITH RESPECT TO C.C.NO.107/2021 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, OTTAPALAM OBTAINED FROM THE E-COURTS WEBSITE Annexure6 TRUE COPY OF THE FIRST INFORMATION REPORT ALONG WITH THE FIRST INFORMATION STATEMENT IN CRIME NO.27/2021 OF OTTAPALAM POLICE STATION DATED Annexure7 TRUE COPY OF THE FINAL REPORT IN CRIME NO.27/2021 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT FILED BEFORE THE SPECIAL COURT FOR SC/ST (POA) ACT - MANNARKKAD DATED 01/02/2021 Annexure8 TRUE COPY OF THE MEMORANDUM OF EVIDENCE SUBMITTED ALONG WITH THE FINAL REPORT IN CRIME NO. 27/2021 OF OTTAPALAM POLICE STATION, PALAKKAD DISTRICT -6- BEFORE SPECIAL COURT FOR SC/ST (POA) ACT - MANNARKKAD Annexure9 TRUE COPY OF THE DAILY STATUS DETAILS DATED 20/01/2023 WITH RESPECT TO S.C.NO.169/2021 OF THE SPECIAL COURT FOR SC/ST (POA ACT) MANNARKKAD OBTAINED FROM THE E-

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