

Santhosh Kumar vs the Joint Director,

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SooperKanoon Citation : sooperkanoon.com/1339865

Court : Kerala

Decided On : Nov-27-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/1382/2019

Appellant : Santhosh Kumar

Respondent : The Joint Director,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
MONDAY, THE 27TH DAY OF NOVEMBER 2023 / 6TH AGRAHAYANA,
1945 CRL.MC NO. 1382 OF 2019 AGAINST THE ORDER/JUDGMENT
CMP 3082/2016 OF CHIEF JUDICIAL MAGISTRATE
,THIRUVANANTHAPURAM/ SPECIAL COURT FOR TRIAL OF CYBER
CRIME SC 1357/2013 OF SPE/CBI COURT, THIRUVANANTHAPURAM

PETITIONER/ACCUSED NO.6: SANTHOSH KUMAR AGED 48 YEARS
S/O LATE RAGHAVAN NAIR,GREESHMAM,NJAKKANAL, P.O
OACHIRA,KOLLAM DISTRICT BY ADV. V.VENUGOPALAN NAIR
RESPONDENTS: 1 THE JOINT DIRECTOR, CENTRAL BUREAU OF

INVESTIGATION,SOUTH ZONE,CHENNAI,PIN 600006 2 THE
SUPERINTENDENT OF POLICE, CENTRAL BUREAU OF
INVESTIGATION,SPECIAL CRIME
BRANCH,THIRUVANANTHAPURAM,PIN 695001 3 DARVIN.K.J,
DEPUTY SUPERINTENDENT OF POLICE,CENTRAL BUREAU OF
INVESTIGATION,SPECIAL CRIME
BRANCH,THIRUVANANTHAPURAM,PIN 695001 4 S.JAYAKUMAR,
ADDITIONAL SUPERINTENDENT OF POLICE,CBI,SCB,CHENNAI,PO
600006

5 ADDL. R5, THE DIRECTOR, CENTRAL BUREAU OF
INVESTIGATION, PLOT NO.5B, CGO COMPLEX, LODHI ROAD, NEW
DELHI-110003 (ADDL.R5 IMPEADED AS PER ORDER DATED
26/7/22 IN CRL.M.A NO.3/2022 IN CRL.M.C NO.1382/2019) BY ADVS.
PUBLIC PROSECUTOR MANU S. ASG OF INDIA B.JAYASURYA
S.RAJEEV SREELAL WARRIAR V.VINAY M.S.ANEER SARATH K.P.
PRERITH PHILIP JOSEPH DR.K.P. SATHEESAN, SC FOR CBI
ADV.SRI.M.R.RAJENDRAN NAIR (SR.) - R4 SRI.RENJITH T.R., PP
THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27.11.2023, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Crl.M.C. No.1382 of 2019
----- Dated this the 27th day of November,
2023

ORDER

This Criminal Miscellaneous Case is filed with the following prayers: to call for records leading up to Annexure A 13 supplementary report and Annexure A15 order dated 20.10.2016, and quash the same in the interest of justice.

2. Petitioner is the additional 6th accused in

S.C.No.1357/2013 on the file of the Special Court for CBI cases, Thiruvananthapuram. Originally the petitioner was not an accused in the case. After further investigation, the petitioner was implicated as additional 6th accused. Petitioner prays for quashing the final report. Admittedly, one of the accused already filed a discharge petition and the same is allowed by the trial court against which three revisions are pending before this Court. In such circumstances, the petitioner also has to file a discharge petition before the trial court, if charge is not framed and if such a discharge petition is filed, there can be a direction to the trial court to consider the same, within a time frame. 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 within three weeks from the date of receipt of a stamped certified copy of this order.

2. Once such a discharge petition is received,

the trial court will consider the same and pass appropriate orders in it, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of the discharge petition. Sd/- P.V.KUNHIKRISHNAN DM JUDGE
APPENDIX OF CRL.MC 1382/2019 ANNEXURE A1 A TRUE COPY OF THE FIR
IN CRIME NO 441

OF 2011 OF THE SHASTHAMKOTTA POLICE STATION DATED
16.4.2011 ANNEXURE A2 A TRUE COPY OF THE FINAL REPORT
DATED 3.7.2012 ANNEXURE A3 A TRUE COPY OF THE REPORT
DATED 15.3.2014 ANNEXURE A4 A TRUE COPY OF THE CRL. MP
NO 125/2014 ANNEXURE A5 A TRUE COPY OF THE COUNTER
AFFIDAVIT PREFERRED BY THE 3RD RESPONDENT IN CRL.M.P.NO
125/2014 ANNEXURE A6 A TRUE COPY OF THE ADDITIONAL
COUNTER AFFIDAVIT FILED BY THE 3RD RESPONDENT FILED ON
23.6.2014 ANNEXURE A7 A TRUE COPY OF THE ORDER DATED
3.7.2014 IN CRL.MP NO 125/2014 IN SC ANNEXURE A8 A TRUE
COPY OF THE ORDER DATED 27.6.2017 IN WPC NO 30307 OF 2015
PASSED BY THIS HON'BLE COURT ANNEXURE A9 A TRUE COPY

OF THE 161 STATEMENT GIVEN BY THE 3RD RESPONDENT IN CRIME NO STATION ANNEXURE A10 A TRUE COPY OF THE DEPOSITION OF THE 3RD RESPONDENT AS PW 97 IN S.C NO0 ANNEXURE A11 A TRUE COPY OF THE DEPOSITION OF THE PW 96 IN SC NO 244/2016 ANNEXURE A12 A TRUE COPY OF THE JUDGMENT DATED 6.7.2017 IN SC NO 244/2016 ANNEXURE A13 A TRUE COPY OF THE SUPPLEMENTARY FINAL REPORT DATED 7.11.2017 PREFERRED BY THE 4TH RESPONDENT IN SC NO 1357/2013 ANNEXURE A14 A TRUE COPY OF THE 161 STATEMENT OF THE CW 163 DATED 13.2.2015 ANNEXURE A15 A TRUE COPY OF THE ORDER DATED 20.10.2016 IN CMP NO 3082/2016 IN RC

1(S) 2012/CBI/SCB/CHENNAI ANNEXURE A16 A TRUE COPY OF THE 164 STATEMENT OF THE CW 163 DATED 1.6.2016 ANNEXURE A17 A TRUE COPY OF THE APPLICATION FOR DISCHARGE PREFERRED BY THE 5TH ACCUSED IN S.C NO 1357/2013 AS CRIMINAL MP NO ANNEXURE A18 A TRUE COPY OF THE OBJECTION PREFERRED BY THE CBI TO CMP 56/2018 IN SC NO ANNEXURE A19 A TRUE COPY OF THE ORDER DATED 9.1.2019 IN CRIMINAL MC NO 174/2019

ANNEXURE A 20 TRUE COPY OF THE JUDGMENT AND ORDER

DATED 05.07.2013 BY THIS COURT IN O.P. (CRL.)NO.2123 OF 2013 ANNEXURE A 21 ORDER DATED 16.3.2019 IN SC 1357/2013 PASSED BY THE SPECIAL JUDGE (SPE/CBI) THIRUVANANTHAPURAM. ANNEXURE A 22 ORDER DATED 24.4.2019 PASSED IN CRL.M.P.NO.256/2018 IN SC 1357/2013 PASSED BY SPECIAL JUDGE (SPE/CBI), THIRUVANANTHAPURAM. RESPONDENTS EXHIBITS :

ANNEXURE R4 A

TRUE COPY OBJECTION DATED 4-01-2014 ANNEX

THE SESSIONS COURT IN SC 243/2016 ANNEXURE R4-D TRUE COPY OF THE PRINT OUT OF THE NEWS ITEM (TRANSCRIBED) AIRED ON 17/5/2023

ANNEXURE R4-E TRUE COPY OF THE OBJECTIONS DT SESSIONS COURT,
ERNAKULAM //TRUE COPY// PA TO JUDGE

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