

Brown vs State of Kerala

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Court : Kerala

Decided On : Oct-17-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/1655/2023

Appellant : BROWN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
TUESDAY, THE 17TH DAY OF OCTOBER 2023 / 25TH ASWINA, 1945
CRL.MC NO. 1655 OF 2023 CRIME NO.356/1989 OF Varkala Police
Station, SC 771/2010 OF PRINCIPAL SUB COURT / COMMERCIAL
COURT, PETITIONER/8TH ACCUSED: BROWN S/O GANGADHARAN,
RESIDING AT CHARUVILA VEEDU, KANNUVARAM, ATTINGAL,
CHITTANIKKARA DESOM, THIRUVANANTHAPURAM DISTRICT,, PIN
- 695101 BY ADVS. J.R.PREM NAVAZ S.DILEEP SATHYAN SUMEEN
S. O.MOHAMED BASIL KOYA THANGAL MUHAMMED SWADIQ
RESPONDENT/STATE: STATE OF KERALA REPRESENTED PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, KOCHIN, PIN - 682031 BY

ADV PUBLIC PROSECUTOR SMT.SREEJA V THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17.10.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Crl.M.C. No.1655 of 2023
----- Dated this the 17th day of October,
2023

ORDER

This Criminal Miscellaneous Case is filed under Section 482 of the Code of Criminal Procedure, 1973 (the Code for the sake of brevity).

2. Petitioner is the accused in S.C.No.771/2010 on the

file of the Assistant Sessions Judge, Thiruvananthapuram, arising from Crime No.356/1989 of Varkala Police Station. The above case is charge-sheeted alleging offences punishable under Sections 454, 395 and 427 of the Indian Penal Code.

3. This criminal miscellaneous case is filed to quash

the proceedings in the light of the fact that the co-accused were already acquitted and the substratum of the prosecution case is lost because of the acquittal of the co-accused.

4. After hearing the counsel for the petitioner for

sometime, I am of the considered opinion that the petitioner has to approach the trial court by filing a discharge petition, if charge is not framed. If such a discharge petition is filed, the trial court will consider the same in the light of Annexure-A2

judgment.

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, 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, in the light of Annexure-A2 judgment, as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of the discharge petition. sd/-
P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF CRL.MC 1655/2023
PETITIONER ANNEXURES Annexure A1 THE CERTIFIED COPY OF THE FINAL
REPORT/CHARGE SHEET IN CRIME NO: 356 OF 1989 OF VARKALA POLICE
STATION

Annexure A2 THE CERTIFIED COPY OF THE JUDGMENT

DATED 11.04.1997 IN S.C. NO: 30 OF 1994 PASSED BY THE COURT OF
COURT OF PRINCIPAL ASSISTANT SESSIONS JUDGE

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