

Stanly Simon vs State of Kerala

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Court : Kerala

Decided On : Apr-10-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/2979/2023

Appellant : Stanly Simon

Respondent : State of Kerala

Advocate for Pet/Ap. : Sri. K.N Radhakrishnan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS MONDAY, THE 10TH DAY OF APRIL 2023 / 20TH CHAITHRA, 1945 CRL.MC NO. 2979 OF 2023 AGAINST THE ORDER IN CC 112/2012 OF CHIEF JUDICIAL MAGISTRATE PATHANAMTHITTA. PETITIONERS/PETITIONERS/ACCUSED 1&5: 1 STANLY SIMON AGED 37 YEARS S/O SIMON C. THOMAS, ASSANPARAMBIL HOUSE, PAZHAMPALAKKAD MURI, PAZHAMPALAKKAD VILLAGE, THAROOR- 1, ALATHOOR TALUK, PALAKKADU DISTRICT., PIN - 678 544. 2 ZEENATH STANLY AGED

42 YEARS W/O STANLY SIMON, ASSANPARAMBIL HOUSE,
PAZHAMPALAKKAD MURI, PAZHAMPALAKKAD VILLAGE,
THAROOR-1, ALATHOOR TALUK, PALAKKADU DISTRICT, PIN - 678
544. BY ADV K.N.RADHAKRISHNAN(THIRUVALLA)
RESPONDENT/RESPONDENT/STATE: STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682 031. BY ADV PUBLIC
PROSECUTOR OTHER PRESENT: SMT.SEETHA S - PP THIS
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10.04.2023, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

BECHU KURIAN THOMAS, J.

===== Crl.M.C. No 2979 of 2023
===== Dated this the 10th day of April,
2023

ORDER

Petitioners are accused Nos.1 and 5 in CC No. 112/2012 on the files of the Chief Judicial Magistrates Court, Pathanamthitta. Petitioners are being proceeded against for the offences under Sections 420 read with Section 34 of the Indian Penal Code, 1860 and Sections 10 and 12 of Emigration Act, 1983. After taking bail in the case, both of them failed to appear and non-bailable warrant has been issued against them.

2. In the meantime, petitioners preferred applications, separately, under Section 205 of the Cr.P.C. seeking permanent exemption from appearance in Court and also to permit them to appear through their counsel.

3. The learned Magistrate, by the two impugned orders,

rejected the applications after observing that petitioners had been continuously absenting themselves from court and therefore, non-bailable warrants were

pending against them.

4. I have heard Sri. K.N Radhakrishnan, learned Counsel for the petitioners as well as Smt. Seetha.S, learned Public Prosecutor.

5. By another order in Crl.M.C No.2951 of 2023, this

Court had considered the case of the petitioners for personal exemption. The prayer was allowed on conditions taking note of another similar order passed by this Court in Crl.M.C No.2011/2023. Since the situation in this case also is identical, there is no reason to take a different view.

6. Accordingly, this Criminal Miscellaneous case under

Section 482 is allowed, setting aside the two impugned orders. Petitioners are granted personal exemption under Section 205 Cr.P.C in appearing before the learned Chief Judicial Magistrate in CC No. 112/2012, on the following conditions:

- 1) Petitioners are granted permanent exemption from appearance under Section 205(1) of the Cr.P.C and shall be represented by their Counsel at the time of trial.
- 2) Petitioners shall appear before the Court at the time of questioning under Section 313 Cr.P.C as well as on the date of

judgment and the exemption granted shall not be applicable as

the petitioners have undertaken to so appear. 3) Petitioner shall file affidavits in tune with the directions in M/s.Bhaskar Industries Limited Vs. M/s.Bhiwani Denim and Apparels Ltd. and Others (AIR 2001 SC 3625).

7. In view of the above, the impugned orders i.e., the

order in Crl.M.P. No.461/2023 & 462/2023 in C.C. No.112/2012

dated 10.02.2023 on the files of the Chief Judicial Magistrates Court, Pathanamthitta are set aside. This Criminal Miscellaneous Case is allowed as above.

Sd/- BECHU KURIAN THOMAS jm JUDGE APPENDIX OF CRL.MC 2979/2023 PETITIONERS ANNEXURES Annexure 1 THE COPY OF FINAL REPORT IN C.C 112 /2012 OF THE FILE OF CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA DATED 17.07.2012. Annexure 2 THE COPY OF MEDICAL CERTIFICATE DATED 30.09.2020 ISSUED FROM THE AMRUTHA INSTITUTE OF MEDICAL SCIENCE, ERNAKULAM. Annexure 3 THE COPY OF MEDICAL CERTIFICATE DATED 07.02. 2023 ISSUED FROM THE AMRUTHA INSTITUTE OF MEDICAL SCIENCE, ERNAKULAM. Annexure 4 THE CERTIFIED COPY OF ORDER IN CRL. MP NO. Annexure 5 THE CERTIFIED COPY OF ORDER IN CRL. MP NO.

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