

N.Elango vs State of Kerala

N.Elango vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1386708

Court : Kerala

Decided On : Dec-01-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/6401/2019

Appellant : N.Elango

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 1ST DAY OF DECEMBER 2023 / 10TH AGRAHAYANA,
1945 CRL.MC NO. 6401 OF 2019 CC 727/2018 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -I,PALAKKAD
PETITIONERS/ACCUSED 2 & 4: 1 N.ELANGO AGED 47 YEARS
FACTORY MANAGER OF M/S. CAVIN KARE PRIVATE LTD.,
RESIDING AT HOUSE NO. 15, J-BLOCK, SHIVALIK NAGAR,
HARIDWAR, UTTARAKHAND. 2 C.K. RANGANATHAN S/O. RC
KRISHNAN, MANAGING DIRECTOR OF M/S. CAVIN KARE PRIVATE
LTD. RESIDING AT 11, BEACH ROAD, CUDDALORE, 607 001, TAMIL
NADU. BY ADVS. S.RAJEEV SRI.K.K.DHEERENDRAKRISHNAN

SRI.V.VINAY SRI.D.FEROZE SRI.K.ANAND (A-1921)
RESPONDENT/STATE: STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031,
(NISHITH M.C., DRUGS INSPECTOR, OFFICE OF THE DRUGS
INSPECTOR, PALAKKAD-678 001). SMT.SREEJA V., PP THIS
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
01.12.2023, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Crl.M.C. No.6401 of 2019
----- Dated this the 01st day of December,
2023

ORDER

This Criminal Miscellaneous Case is filed to quash the proceedings in C.C.No.727/2018 on the file of the Judicial First Class Magistrate Court-I, Palakkad. It is a complaint filed by the Drugs Inspector, Palakkad, against the petitioners alleging offences punishable under Sections 18(a)(ii) read with Section 27A (ii) of the Drugs and Cosmetics Act.

2. A preliminary point was raised by the counsel for

the petitioners that the order taking cognizance is illegal because there was delay in filing the complaint and the delay was not condoned. When such a contention was raised, this Court directed the Registry to get a report from the trial court. A report is submitted, the relevant portion of which is extracted hereunder:

I may further submit that a petition to condone the delay is seen filed along with the complaint in this case. The delay is also mentioned in the complaint. But no order condoning the delay is seen passed in this case before taking cognizance.

3. From the above it is clear that the learned Magistrate had taken cognizance without condoning the delay in filing the complaint. In such circumstances, I think the

order taking cognizance is illegal. Therefore, the order taking

cognizance on Annexure-I complaint is to be set aside and there can be a direction to the trial court to reconsider the delay petition with notice to the petitioners and thereafter decide the matter in accordance with law. All other contentions raised by the petitioners in this case are left open. Therefore, this Criminal Miscellaneous Case is allowed in the following manner:

1. The order taking cognizance in C.C.No.727/2018 on the file of the Judicial First Class Magistrate Court-I, Palakkad is set aside.

2. The Judicial First Class Magistrate Court-I,

Palakkad, is directed to consider the petition to condone the delay, with notice to the petitioners and the Drugs Inspector, and thereafter decide the matter about the question of taking cognizance, in accordance with law. sd/- P.V.KUNHIKRISHNAN
JV JUDGE APPENDIX OF CRL.MC 6401/2019 PETITIONER ANNEXURES
ANNEXURE I CERTIFIED COPY OF THE COMPLAINT DATED 05.12.2018
FILED BY THE DRUGS INSPECTOR.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com