

Sasikumar vs the Sub Inspector of Police

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Court : Kerala

Decided On : Dec-20-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : Crl.MC/5275/2020

Appellant : Sasikumar

Respondent : The Sub Inspector of Police

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 20TH DAY OF DECEMBER 2023 / 29TH
AGRAHAYANA, 1945 CRL.MC NO. 5275 OF 2020 CRIME NO.292/2013
OF Town East Police Station, Thrissur AGAINST THE
ORDER/JUDGMENT CC 122/2020

PETITIONER/7TH ACCUSED: SASIKUMAR AGED 53 YEARS
S/O.VASU, KONIPARAMBIL HOUSE, PERINGANDOOR, THRISSUR-
680 581 BY ADVS. K.M.SATHYANATHA MENON SRI.ARUN AJAY
SHANKAR SRI.JIKKU SEBAN GEORGE
RESPONDENTS/COMPLAINANT AND STATE: 1 THE SUB

INSPECTOR OF POLICE TOWN EAST POLICE STATION, THRISSUR
-680 001 2 STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031 BY ADV.
SRI.HRITHWICK C.S, PP THIS CRIMINAL MISC. CASE HAVING
COME UP FOR ADMISSION ON 20.12.2023, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- Dated this the
20th day of December, 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 7th accused in Crime No. is now pending as C.C.No.122/2020 on the file of the Special Additional Chief Judicial Magistrate Court, Thrissur.

3. It is submitted that the co-accused were

already acquitted as per Annexure C judgment. It is submitted that, in the light of the same, the continuation of the proceedings against the petitioner is an abuse of process of court.

4. Heard counsel for the petitioner and the Public

Prosecutor. The counsel for the petitioner submitted that the co-accused were already acquitted by the trial court and the continuation of the trial against the petitioner will be an abuse of process of court because the substratum of the prosecution case is shattered. The Public Prosecutor submitted that the petitioner has to face trial before the lower court and this court may not invoke the powers under Section 482 of the Code.

5. This Court in Moosa v. Sub Inspector of

Police (2006 (1) KLT 552), Abbas T.K. v. State of Kerala (2013 KHC 336) and in Ashraf Kancheriyil v. State of Kerala (2011(2) KHC 812) considered the powers of this court to invoke Section 482 of the Code to quash the proceedings based on the acquittal of co-accused. The dictum laid down by this court in the above judgment is that, if substratum of prosecution case is shattered by the judgment of acquittal of the co-accused that could be taken into account while considering the request to quash the proceedings. After going through the judgment of the trial court, I am of the considered opinion that the continuation of the prosecution against the petitioner/s will be an abuse of process of court. It will be beneficial to extract the relevant portion of Annexure C

judgment by which the co-accused is acquitted:

6. Point Nos. 1 to 6: This case was registered by the Sub Inspector of Police, Town East Police Station Thrissur based on the private complaint of PW1 before the Chief Judicial Magistrate, Thrissur and forwarded to the police u/s.156 (3) Cr.P.C. Ext.PI is the complaint. Even though PW1 the de-facto complainant alleged in Ext.P1 that the accused persons had conducted money circulation scheme and obtained deposit from him offering profits which was subsequently not returned,

PW1 turned hostile to the prosecution stating that he had received products from the accused for the money paid and no amount was deposited. He further stated that he has settled the case with the accused and Ext.PI complaint was filed on a misunderstanding. No amount is due to him from the accused. In the circumstances, the examination of remaining witnesses were given up by the learned Spl. Prosecutor. Questioning u/s.313 Cr.P.C is dispensed with for want of any incriminating evidence against the accused. The prosecution has failed to prove the guilt of the accused alleged against them. Therefore I find them not guilty of the offences u/ss. 406 and 420 r/w s.34 of IPC and ss.3, 4, 5 and 6 of Prize Chits Money Circulation Schemes (Banning) Act, 1978.

From the above, it is clear that the substratum of

the prosecution case is shattered by the judgment

delivered by the lower court, while acquitting the co-accused. Therefore, this court is of the view that the continuation of the prosecution will be an abuse of process of court and it will be a judicial waste of time. Therefore, this Crl.M.C can be allowed. Hence this Criminal Miscellaneous Case is allowed. All further proceedings against the petitioner in C.C.No.122/2020 on the file of the Special Additional Chief Judicial Magistrate Court, Thrissur are quashed. Sd/- P.V.KUNHIKRISHNAN DM JUDGE APPENDIX OF CRL.MC 5275/2020 PETITIONER ANNEXURES ANNEXURE A CERTIFIED COPY OF THE COMPLAINT FILED AS M.P.NO.728/12 DATED 23.1.2012 BEFORE THE CHIEF JUDICIAL MAGISTRATE, THRISSUR ANNEXURE B CERTIFIED COPY OF THE FINAL REPORT

SUBMITTED BY THE 1ST RESPONDENT IN CRIME NO.292/2012 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR ANNEXURE C CERTIFIED COPY OF THE JUDGMENT IN C.C. NO.13/2014 DATED 1.9.2014 ON THE FILES OF COURT OF THE SPECIAL ADDITIONAL CHIEF JUDICIAL MAGISTRATE, THRISSUR ANNEXURE D CERTIFIED COPY OF THE JUDGMENT DATED 28.10.2019 IN CRL.M.C. NO.6511 OF 2019 OF THIS HONOURABLE COURT RESPONDENTS EXHIBITS : NIL //TRUE COPY// PA TO JUDGE

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