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

V. Anilkumar vs State of Kerala

V. Anilkumar vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1411376

Court : Kerala Orders

Decided On : May-22-2023

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Crl.MC/9591/2022

Appellant : V. Anilkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V MONDAY, THE 22ND DAY OF MAY 2023 / 1ST JYAISHTA, 1945 CRL.MC NO. 9591 OF 2022 PETITIONERS/ACCUSED NOS.1 TO 8 AND 10: 1 V. ANILKUMAR AGED 50 YEARS, S/O VELUKKUTTY PANIKKAR, SHIVAM, POOVATHOOR P.O, NEDUMANGAD, THIRUVANANTHAPURAM, FORESTER, IDUKKI, KERALA, PIN - 695161 2 V C LENIN AGED 38 YEARS, S/O VIJAYAKUMARAN NAYAR, L V BHAVAN, KALLARA P.O, THIRUVANATHAPURAM , BFO, IDUKKI, KERALA, PIN - 695608 3 JIMMY JOSEPH AGED 51 YEARS, S/O JOSEPH CHAKKO, VADAKKAN (H), KAANJIYAAR P.O, BFO, IDUKKI, KERALA, PIN - 685511 4 K.N. MOHANAN AGED 45 YEARS, S/O KUTTAPPAN,

NEELARAPPARAYIL, IDUKKI COLONY P.O, FOREST WATCHER, IDUKKI, KERALA, PIN 685 602 5 SHIJIRAJ N.R, AGED 49 YEARS, S/O N. RAMAKRISHNAN ACHAARI, KIZHAKKETHARA VEEDU, KALLIPPARA, PALODU PACHA P.O, THIRUVANATHAPURAM, BFO, IDUKKI, KERALA, PIN - 695 562 6 K.T. JAYAKUMAR, AGED 50 YEARS, S/O THANKAPPAN, KAVALAYIL, MATHAYIPPARA, KAZHUKANAM, IDUKKI, FOREST WATCHER, IDUKKI, KERALA, PIN - 685602 7 SANTHOSH K.N AGED 44 YEARS, S/O NARAYANAN, KAKKANATT PARAMBIL, K CHAPPATH P.O, IDAPPOOKKALAM, IDUKKI, FOREST WATCHER, IDUKKI, KERALA, PIN - 685 505 8 K.S. GOPALAKRISHNAN AGED 57 YEARS, S/O KARUNAKARAN NAIR, AGED 57 YEARS, SREENILAYAM, NAYARUPPARA P.O, IDUKKI , FOREST WATCHER, IDUKKI, KERALA, PIN - 685602 Crl.M.C No.9591 of 2022 2 9 T.K. LEELAMANI AGED 41 YEARS, D/O MANIKYAN, MAKKANIKKAL (H), MATHAYIPPARA, KOLLATHIKKAVU, IDUKKI, FOREST WATCHER, IDUKKI, KERALA, PIN - 685 505 BY ADVS. V.V.NANDAGOPAL NAMBIAR JOHNSON VARGHESE VICTOR GEORGE V.M. SMITHA (EZHUPUNNA) CHITRA JOHNSON

RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 SARUN SAJI, S/OSAJIMON, PUTHENPURAKKAL, MULLA, MATHAYIPPARA, IDUKKI, PIN - 685505 BY ADVS. PUBLIC PROSECUTOR ADV ARUNDAS K S ABHISHEK KURIAN(K/296/2010) SRI VIPIN NARAYAN SR.PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22.05.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.C No.9591 of 2022 3

RAJA VIJAYARAGHAVAN V, J.

---------- Crl.M.C No.9591 of 2022 ---------- Dated this the 22nd day of May, 2023

ORDER

The petitioners herein are the forest officials. They have been arrayed as accused in Crime No.703/2022 of Upputhara Police Station. The aforesaid crime has been registered based on information furnished by the 2nd respondent alleging offenses punishable under Sections 341, 323, 294(b), 506 (1), 330, 201, 34 of the IPC r/w Sections 3 (1) P, 3 (1) S, 3

(2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. This petition is filed invoking the powers of this Court under Section 482 of the Cr.P.C. to quash the FIR.

2. After arguing for some time, the learned counsel appearing

for the petitioners submits that the petitioners be permitted to withdraw this petition, reserving the right of the petitioners to mount a challenge after the submission of the final report. Crl.M.C No.9591 of 2022 4 In view of the aforesaid submission, this petition is dismissed as withdrawn, reserving the right of the petitioners to challenge the final report if so advised. Sd/- RAJA VIJAYARAGHAVAN V, JUDGE ded Crl.M.C No.9591 of 2022 5 APPENDIX OF CRL.MC 9591/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF FIR IN CRIME NO. 703/2022 OF UPPUTHARA POLICE STATION Annexure A2(a) THE COMMUNITY CERTIFICATE ISSUED BY THE

TAHASILDHAR IDUKKI CERTIFYING THAT THE 4TH PETITIONER BELONGS TO HINDU URALI, WHICH IS RECOGNIZED AS SCHEDULED TRIBE UNDER THE CONSTITUTION (SCHEDULE TRIBES ORDER 1950 AS AMENDED BY SCHEDULE CASTE & SCHEDULE TRIBES ORDERS(AMENDMENT ACT) 1976, DATED 8.7.2014 Annexure A2(b) THE COMMUNITY CERTIFICATE ISSUED BY THE TAHASILDHAR PEERUMEDU CERTIFYING THAT THE 4TH PETITIONER BELONGS TO HINDU URALI, WHICH IS RECOGNIZED AS SCHEDULED TRIBE UNDER THE CONSTITUTION (SCHEDULE TRIBES ORDER 1950 AS AMENDED BY SCHEDULE CASTE & SCHEDULE TRIBES ORDERS(AMENDMENT ACT) 1976, DATED 23.11.2013 Annexure A2(c) THE COMMUNITY CERTIFICATE ISSUED BY THE TAHASILDHAR PEERUMEDU CERTIFYING THAT THE 9TH PETITIONER BELONGS TO HINDU URALI, WHICH IS RECOGNIZED AS SCHEDULED TRIBE UNDER THE

CONSTITUTION (SCHEDULE TRIBES ORDER 1950 AS AMENDED BY SCHEDULE CASTE & SCHEDULE TRIBES ORDERS(AMENDMENT ACT) 1976, DATED 13.3.2012

Annexure A3 TRUE COPY OF FORM NO.1 UNDER SECTION 52 OF KERALA FOREST ACT 1961 IN OR NO. 1/2002, FILED BEFORE JFCM COURT, KATTAPANA Annexure A4 TRUE COPY OF THE CERTIFICATE OF EXAMINATION ISSUED BY THE MEDICAL OFFICER DATED 20.9.2022 Annexure A5 TRUE COPY OF THE REMAND REPORT ALONG WITH THE ENDORSEMENT OF MAGISTRATE Annexure A6 TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY MEDICAL OFFICER DATED 20.9.2022 Annexure A7 TRUE COPY OF THE PROFORMA FOR HEALTH SCREENING OF PRISONERS ON ADMISSION TO JAIL Annexure A8 TRUE COPY OF THE ORDER IN CMP NO. 4240/2022 IN OR NO.1/2022 OF WILDLIFE DIVISION IDUKKI Annexure A9 TRUE COPY OF THE CERTIFICATE NO. 965/2022 DATED 26.9.2022 ISSUED FROM TALUK HOSPITAL, KATTAPANA Annexure A10 TRUE COPY OF CERTIFICATE NO. 974/2022 DATED 27.9.2022 ISSUED FROM TALUK HOSPITAL, KATTAPANA RESPONDENT ANNEXURES Crl.M.C No.9591 of 2022 6 Annexure R2(f) A complaint filed by the father of the 3rd

respondent before the wild life warden divisional office Vellappara with supporting documents and photographs Annexure R2 (a) A true copy of OR No 1/2022 of Kizhukanam Section Forest Office, which was submitted before the Judicial First Class Magistrate Annexure R2(e) A true copy of the report dated 19.10.2022 of the Divisional Forest Officer, Flying Squad, Idukki Annexure R2(g) A True copy of the order dated 29.10.2022 bearing No KFDHRC/348/2022- CCFHRC/E3 of Circle Chief Forest Conservator, High Range Circle, Kottayam PETITIONER ANNEXURES Annexure A11 THE OBJECTION FILED BY THE ASSISTANT WILDLIFE WARDEN OBJECTING THE RELEASE OF VEHICLE USED FOR TRANSPORTATION OF CONTRABAND ARTICLE RESPONDENT ANNEXURES Annexure R2(b) A true copy of the mahazar prepared by the 1st petitioner herein which was submitted before the Judicial First Class Magistrate Court Kattappana, Idukki Annexure R2(c) A true copy of remand report dated 20.09.2022 in OR No 1/2022 of Kizhukanam Section Forest Office, which was submitted before the

Honourable Judicial First Class Magistrate

Annexure R2 (d) A receipt issued by the SHO Upputhara Police station dated 18.10.2022 recieveing the complaint of the 2nd respondent Annexure R2(h) A true copy of the order dated 01.11.2022 bearing No GO (MS) No 467/2022 F WLD issued by Joint Secretary to the Government Annexure R2(i) A true copy of the report dated 10/11/2022 of

the Additional Principal Chief Forest Conservator (Administration) submitted before the Kerala Human Rights Commission

Annexure R2(j) A true copy of application details obtained from the website of Kerala Public Service Commission. Annexure R2(a) A true copy of OR No 1/2022 of Kizhukanam Section Forest Office, which was submitted before the Judicial First Class Magistrate Crl.M.C No.9591 of 2022 7 Annexure R2(e) A complaint filed by the father of the 3rd respondent before the wild life warden divisional office Vellappara Annexure R2(i) A true copy of application details obtained from the website of Kerala Public Service Commission Annexure R2(f) A True copy of the order dated 29.10.2022

bearing No KFDHRC/348/2022- CCFHRC/E3 of Circle Chief Forest Conservator, High Range Circle, Kottayam Annexure R2(g) A true copy of the order dated 01.11.2022 bearing No GO (MS) No 467/2022 F WLD issued by Joint Secretary to the Government Annexure R2 (h) A true copy of the report dated 10/11/2022 of

the Additional Principal Chief Forest Conservator (Administration) submitted before the Kerala Human Rights Commission Annexure R2(b) A true copy of the mahazar prepared by the 1st petitioner herein which was submitted before the Judicial First Class Magistrate Court Kattappana, Idukki Annexure R2(c) A true copy of remand report dated 20.09.2022 in OR No 1/2022 of Kizhukanam Section Forest Office, which was submitted before the Honourable Judicial First Class Magistrate

Annexure R2(d) A true copy of the report dated 19.10.2022 of the Divisional Forest Officer, Flying Squad, Idukki PETITIONER ANNEXURES Annexure A12 True

copy of the report dated 26.11.2022 addressed to the Registrar, Kerala State SC/ST Commission Annexure A13 True copy of the extract of weekly diary maintained in the office of Wildlife Warden, Idukki obtained under RTI Act Annexure A14 True copy of the reply to memo given by the investigating officer to the wildlife warden dated 29.9.2022 Annexure A15 True copy of the Order dated 21.02.2023 issued on 16.03.2023

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