

Arun vs State of Kerala

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Court : Kerala

Decided On : Feb-28-2022

Judge : Honourable Mr. Justice K.Haripal

Appeal No. : Crl.MC/123/2022

Appellant : ARUN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE K.HARIPAL MONDAY, THE 28TH DAY OF FEBRUARY 2022 / 9TH PHALGUNA, 1943 CRL.MC NO. 123 OF 2022 [AGAINST CRIME NO.761/2011 OF VARKALA POLICE STATION, THIRUVANANTHAPURAM RURAL DISTRICT WHICH IS NOW PENDING AS LP 107/2019 OF SUB COURT & SESSIONS COURT,ATTINGAL] PETITIONER/ACCUSED NO.4: ARUN AGED 34 YEARS S/O. LAGAPATHY, SOPANAM VEEDU, KURAIKKANNI, KURAIKKANNI DESOM, VARKALA VILLAGE, VARKALA P.O, THIRUVANANTHAPURAM DISTRICT 690 533 BY ADVS. R.RAJESH (VARKALA) M.KIRANLAL MANU RAMACHANDRAN T.S.SARATH SAMEER M NAIR RESPONDENTS/DE-FACTO

COMPLAINANT/STATE: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, COCHIN 682 031 2 THE STATION HOUSE OFFICER VARKALA POLICE STATION, THIRUVANANTHAPURAM RURAL DISTRICT 3 SHAKUMAR AGED 40 YEARS S/O. GOPALAKRISHNAN, KUNNUVILA VEEDU, KURAIKKANNI DESOM, VARKALA VILLAGE, THIRUVANANTHAPURAM DISTRICT 691 536 OTHER PRESENT: SR.PP - SRI. NOUSHAD K.A. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: :-2-:

ORDER

Petitioner is the fourth accused in Crime No.761/2011 of Varkala Police Station where he along with four others faced allegations under Sections 143,147,148, 294(b),341,323,324 and 308 read with 149 IPC. Learned counsel submits that all other accused persons faced trial and were acquitted, since the petitioner was abroad at the time of trial, the case against him was split up and removed to the register of Long Pending cases as L.P.No. 107/2019. Now the petitioner wants to surrender before the court and to face trial.

2. It is evident that the case against him was committed

and he had gone absconding during the period when the matter was pending before the Assistant Sessions Court, Attingal. In the absence of overwhelming circumstances and having regard to the fact that he had faced committal proceedings, normally, custodial trial cannot be insisted. Therefore, he is at liberty to surrender before the trial court after giving advance notice to the Public :-3-: Prosecutor concerned. If he files an application for bail, that shall be considered on the same day, following the dictum in Siddarth v. State of Uttar Pradesh and another [2021(5) KHC 353 (SC)]. CrI.M.C. is disposed of as above. sd/- K.HARIPAL, Judge MBS/ :-4-: APPENDIX OF CRL.MC 123/2022 PETITIONER's ANNEXURES: Annexure A1 THE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 761/2011 OF VARKALA POLICE STATION, THIRUVANANTHAPURAM RURAL DISTRICT Annexure A2 THE TRUE COPY

OF THE CASE STATUS OF THE PETITIONER BEFORE THE TRIAL COURT

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