

Roychan vs State of Kerala,

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Court : Kerala Orders

Decided On : Jul-29-2022

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/5398/2019

Appellant : Roychan

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944
CRL.MC NO. 5398 OF 2019 AGAINST THE ORDER/JUDGMENTCC
601/2018 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,ALATHUR
PETITIONER/S: ROYCHAN AGED 44 YEARS S/O. MARKOSE,
CHALIYIL HOUSE, KADAMKODE, VALLIYODE,
ANJUMUTHYMANAGALAM, PALAKKAD BY ADV E.VIJIN KARTHIK
RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031 2
THE STATION HOUSE OFFICER, NENMARA POLICE STATION
(CRIME NO. 406 OF 2018), PALAKKAD 678 508 ADV SREEJA V-SR

PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.07.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: :2 :

ORDER

Dated this the 29th day of July, 2022 The petitioner, who is the accused in crime No.406/2018 of Nenmara Police Station has approached this Court by filing this Crl.M.C. challenging Annexure-A3 order. The aforesaid order is passed by the learned Magistrate, allowing the application in part, which was submitted for release of certain articles, to the petitioner under Section 451 of Cr.P.C.

2. The aforesaid crime was registered against the

petitioner, for the offences punishable under Sections 379 and 461 of the Indian Penal Code. The allegation against the petitioner is that on 09.03.2018 at 13.15 hours, the petitioner committed theft of some amounts and a cheque book from a motor cycle of the defacto complainant which was parked on the road side. As part of investigation, the Police seized certain articles, which are mentioned hereunder:

1. Helmet branded - Studs

2. Sunglass branded - ray ban :3 :

3. Lenovo mobile phone

4. Micro-SD-Card-Thoshiba

5. LCD-Monitor-Serial No.MMT3FSS000175000FAF3B00

6. Keyboard-Dell

7. Mouse-Dell

8. CPU

9. Speakers two in numbers

10. UPS

3. The petitioner submitted Crl.M.P. No.6727/2018, for

release of the said articles mentioned above and also a motor cycle bearing registration No. KL-08-AL-5390, which was also seized by the Police. The aforesaid application was rejected as per Annexure A3 and this Crl.M.C. is filed challenging the same.

4. Heard Sri. Vijin Karthik E., the learned counsel appearing for the petitioner and Smt. Sreeja V., the learned Senior Public Prosecutor for the State.

5. After perusing the records and hearing both sides, I do

not find any reason to interfere with the findings of the learned Magistrate. This is particularly because it is discernible from the records that the prosecution has a specific case that, the articles the release of which were declined by the learned Magistrate were procured by the petitioner by using the amounts which was stolen by him. This aspect was specifically taken note of by the learned Magistrate and that was the precise reason on which the :4 : prayer sought for by the petitioner is dismissed. It is also discernible from the observations made in the said order that, earlier on two occasions, the petitioner had filed similar applications and the same was rejected.

6. While considering the sustainability of the aforesaid

contention, another crucial aspect to be noted is that, the case is of the year 2018 and the same is ripe for trial. Since the prosecution has a specific case that the articles were purchased by using the funds which was stolen, I do not deem it appropriate to pass an order to release the said articles to the petitioner even for interim custody. Appropriate orders are to be passed by the learned Magistrate after conclusion of the trial and subject to the findings entered thereto. In such circumstances, I do not find any reason to entertain this Crl.M.C. and accordingly it is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd :5 : APPENDIX OF CRL.MC 5398/2019 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE PROPERTY LIST DATED 24.03.2018. Annexure A2 TRUE COPY OF THE

REPORT DATED 31.08.2018. ANNEXURE A3 CERTIFIED COPY OF THE ORDER IN CRIMINAL M.P 6727 OF 2018 DATED 24.11.2018.

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