

Pushpankaran vs State of Kerala

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Court : Kerala Orders

Decided On : Oct-28-2022

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

Appeal No. : Crl.MC/7135/2022

Appellant : Pushpankaran

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 28TH DAY OF OCTOBER 2022 / 6TH KARTHIKA, 1944
CRL.MP 1927/2022 IN S.C. NO.760/2022 OF ADDITIONAL SESSIONS
COURT V, THIRUVANANTHAPURAM CRIME NO.331/2015 OF
VENJARAMOODU POLICE STATION PETITIONERS/ACCUSED NOS.1
AND2: 1 PUSHPANKARAN AGED 47 YEARS S/O KRISHNAN NADAR,
KAITHARAKKUZHI VEEDU, VANDIPPARAMUKKU, KEZHAYIKONAM,
NELLANADU VILLAGE, NEDUMANGAD TALUK,
THIRUVANANTHAPURAM DISTRICT, PIN - 2 VINESH AGED 34
YEARS S/O VIJAYAN VINESHBHAVAN, VANDIPPARAMUKKU
KEEZHAYIKONAM, NELLANADU VILLAGE NEDUMANGAD TALUK,

THIRUVANANTHAPURAM DISTRICT-695 607 BY ADV RENJITH B.MARAR RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 BY ADV Sri M P Prashanth, PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.10.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused Nos. 1 and 2 in Crime No.331/2015 of Venjaramoodu Police Station which is now pending as S.C. No.760/2022 before the Additional Sessions Court V, Thiruvananthapuram. Initially, the crime was registered under Section 174 of Cr.P.C. and later, the offence under Section 302 of Indian Penal Code was added.

2. The prosecution case is follows: The petitioners were

accused in another case numbered as Crime No.20/2008 of Venjaramoodu Police Station which was registered for the offence punishable under Section 302 of Indian Penal Code. The deceased in the present crime was one of the witnesses in the said crime and since the petitioners apprehended that the deceased is likely to give evidence against them, they conspired together and caused the death of the said witness on 25.03.2015 by beating him with sticks and iron rods. The crime was registered in such circumstances and after completing the investigation, a final report was submitted.

3. During the crime stage the petitioners were arrested and

they were granted bail by the Additional Sessions Court V, Thiruvananthapuram as per Annexure A4 order. The said order was passed on 15.06.2022, and one of the conditions imposed in the said

order was that the petitioners shall not enter the local limits of

Venjaramoodu Police Station till the conclusion of the trial of the said case. Later, Crl.M.P. No.1927/2022 was submitted by the petitioners seeking modifications of

the order, by stating that the said condition is causing prejudice to him. The said application was dismissed by the learned Sessions Judge as per Annexure A5 and this Crl.M.C. is filed challenging the said order.

4. Heard Sri.Renjith B. Marar, learned counsel appearing for the petitioners and Sri.M.P. Prashanth, learned Public Prosecutor for the State.

5. The learned counsel for the petitioner contended that the

condition restricting him from entering the local limits of Venjaramoodu Police Station is causing serious prejudice to him. On the other hand, the learned Public Prosecutor would seriously oppose the aforesaid contention. It is pointed out that, witnesses to this case are residing in the said locality and the release of the petitioners would cause serious prejudice to the prosecution as the petitioners are likely to influence the said witnesses by threatening them.

6. I have gone through records and heard the contentions raised from either side. After examining all the materials, I am of the view that, the apprehension voiced by the learned Public

Prosecutor cannot be simply brushed aside. Apparently, while dismissing the prayer sought for by the petitioners to modify the condition prohibiting their entry to the local limits of Venjaramoodu Police Station, the learned Sessions Judge, was ensuring that the trial of the said case is conducted without any prejudice or bias. It is evident from the records that the particular condition itself was imposed with that objective in mind. This is particularly because the case in which the petitioners are now implicated is on the allegation that they had committed the murder of a witness in another case in which the petitioners were found involved for committing the

murder of another person. Therefore, since the petitioners are having antecedents of getting involved in a case of murder of a witness in another case in which they were accused, I am of the

view that, the condition imposed is reasonable. Moreover, the aforesaid condition is imposed only as per the order dated 15.06.2022 and the petitioners submitted

the application to modify the said condition during the month of September 2022. After examining all the materials, I do not find any justifiable reason to interfere with the condition imposed by the learned Magistrate and the order passed by the learned Magistrate rejecting the prayer sought to modify the said condition.

In such circumstances, I do not find any merit in this Crl.M.C. and accordingly, it is dismissed. Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF CRL.MC 7135/2022 PETITIONER ANNEXURES Annexure A-1 TRUE COPY OF THE FIR ALONGWITH THE FIRST INFORMATION STATEMENT IN CR. NO. STATION DATED 26.03.2015 Annexure2 TRUE COPY OF THE JUDGMENT OF THIS COURT IN CRL. A. NO. 1043/2015 DATED 03.07.2019 Annexure A-3 TRUE COPY OF THE ORDER OF THIS COURT DATED 19.05.2022 IN B.A. NO. 1063/2022 Annexure A-4 TRUE COPY OF THE ORDER OF THE ADDL. SESSIONS JUDGE - V, THIRUVANANTHAPURAM DATED 15.06.2022 IN CRL. M.P. NO. Annexure A-5 CERTIFIED COPY OF THE ORDER OF THE ADDL. SESSIONS JUDGE - V, THIRUVANANTHAPURAM IN CRL. M.P. NO. 20.09.2022

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