

Sajan vs State of Kerala

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Court : Kerala

Decided On : Dec-14-2022

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Crl.MC/9021/2022

Appellant : SAJAN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
WEDNESDAY, THE 14TH DAY OF DECEMBER 2022 / 23RD
AGRAHAYANA, 1944 CRL.MC NO. 9021 OF 2022 AGAINST THE
ORDER/JUDGMENT IN SC 701/2021 OF SPECIAL JUDGE, SPECIAL
COURT FOR SC/ST (POA) ACT CASES, KOTTARAKKARA (SPLIT UP
AND REFILED FROM SC 19/2018 OF THE SAME COURT IN WHICH
THE PETITIONER WAS THE 3RD ACCUSED)
PETITIONER/ACCUSED: SAJAN AGED 30 YEARS, S/O
SATHYASEELAN, SAJ BHAVANAM, PEZHUMTHURUTH MURI,
MANTHROTHURATHU VILLAGE, KOLLAM BY ADVS. ARUN BABU
SHINE S. RESPONDENTS/COMPLAINANT: 1 STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 DEPUTY SUPERINTENDENT OF POLICE, OFFICE OF THE DYSP, KOTTARAKKARA, KOLLAM, PIN - 691506 3 BABU AGED 57 YEARS, S/O VELLEMPEN, TINKU BHAVAN, EAST KALLDA, MUNDROTHURATHU P.O, KOLLAM, PIN - 690538 PP-SRI.G.SUDHEER THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14.12.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 14th day of December, 2022 This is a petition filed under Section 482 of the Code of Criminal Procedure (hereinafter referred as 'Cr.P.C.' for convenience) by the 3rd accused in S.C.No.701/2021 on the files of the Special Court, Kottarakkara under the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act cases (hereinafter referred as 'SC/ST (POA) Act').

2. The prayer herein is to direct the Special Judge,

Special Court for SC/ST (POA) Act Cases, Kottarakkara, to consider the bail application that may be submitted by the petitioner/accused on the same day of his surrender before the court.

3. On 12.12.2022, the learned counsel for the

petitioner pressed for the relief on the submission that, the petitioner went abroad in search of a job and thereby his case was split up and re-filed. But in the petition, nothing disclosed in so far as the abscondence of the accused and the consequential cancellation of bail as well as forfeiture of bond. At the same time, there no whisper in the petition as to pendency of nonailable warrant also, though it is stated that warrant is pending.

4. At this juncture, this Court called for a report from the learned Special Judge, Kottarakkara, and as per the report the learned Special Judge reported as under:

In obedience to the order referred, I may submit that Sri.Sajan, 3rd accused in S.C. 19/2018, renumbered as S.C. 701/2021 had taken bail at the crime stage on 16.02.2018. After assigning sessions case number 19/2018 he appeared the Court on 25.05.2019. Then he absent contineously and on 25.01.2020 it was reported that he was in abroad. On 19.06.2020 the case of A3 is split up and issued non-bailable warrant against the accused. In the S.C.19/2018 accused 1 and 2 are acquitted on 16.04.2021 and letter was sent to the Hon'ble Sessions Court, Kollam to assign new sessions case number to A3, Sajan. On 27.07.2021 new sessions case number S.C. 701/2021 has assigned and issued non-bailable warrant against the accused Sajan.

In this regard, I may humbly submit that after taking bail the accused Sajan had jumped out of bail at once.

5. Thus, it appears that, on getting released on

bail, at the first instance, the petitioner jumped bail and went abroad. Accordingly, the learned Special Judge, Kottarakkara, split up the case against the petitioner and his case was re-filed.

6. Now it is reported that, non bailable warrant is pending against the petitioner. Thus it appears that, material facts in relation to cancellation of bail are not disclosed in this petition.

7. However, it is submitted by the learned counsel for the petitioner that, the petitioner is the 3 rd accused and accused nos. 1 and 2 were acquitted in this case, during trial.

8. In view of the above factual situation, there shall

be a direction to the Special Judge, Kottarakkara, to consider the fresh bail application, if any, filed by the petitioner on his surrender, on the day itself, taking note of these facts.

9. Accordingly, the petitioner is directed to

surrender before the Special court, within a period of ten days from today and on surrender bail application, if any will be filed, this shall be considered and order shall be passed, on the date of petitioner's surrender itself, purely on merits.

10. It is specifically ordered that, if any M.C.

proceedings registered for forfeiture of bond, the Special Court shall go with steps to recover the penalty amount from the petitioner/3rd accused and sureties, in accordance with law. In the result, this CrI.M.C. stands allowed as indicated herein above. Sd/- A. BADHARUDEEN SK JUDGE APPENDIX OF CRL.MC 9021/2022 PETITIONER ANNEXURES ANNEXURE A1 THE TRUE COPY OF THE F.I.R DATED 31/12/2017

IN CRIME NO 2021/2017 OF EAST KALLADA POLICE STATION ANNEXURE A2 THE TRUE COPY OF THE JUDGMENT DATED JUDGE, SPECIAL COURT FOR SC/ST(POA)ACT CASES, KOTTARAKKARA RESPONDENTS' ANNEXURES : NIL

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