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Haneefa vs State of Kerala

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Court : Kerala

Decided On : Apr-27-2021

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.Rev.Pet/291/2021

Appellant : Haneefa

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS TUESDAY, THE 27TH DAY OF APRIL 2021 / 7TH VAISAKHA, 1943 Crl.Rev.Pet.No.291 OF 2021 AGAINST THE ORDER DATED 25.03.2021 IN C.M.P.No.898/2021 IN SC PALAKKAD CRIME NO.1071/2014 OF Mannarkkad Police Station , Palakkad REVISION PETITIONER/PETITIONER/ACCUSED: HANEEFA AGED 32 YEARS S/O. ALAVI, PERUMANNIL HOUSE, CHANGALEERI (POST), MOTHIKKAL, MANNARKKAD TALUK, PALAKKAD DISTRICT. BY ADVS. SRI.P.K.MOHANAN(PALAKKAD) SHRI.THAREEQ ANVER RESPONDENTS/RESPONDENT/COMPLAINANT: STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031 SMT.REHNA N.S.- PUBLIC

PROSECUTOR

OTHER PRESENT: SRI.SANTHOSH PETER, SR.PP THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 27.04.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.R.P.No.291 OF 2021 2

ORDER

Dated this the 27th day of April, 2021 The revision petitioner is the accused in S.C. No. 454 of 2017 on the file of the First Additional Sessions Judge (Special Judge), Palakkad.

2. It is the case of the petitioner that S.C.

> No. 454/2017 stands posted for defence evidence. The petitioner filed an application to summon the case diary in Crime No.1000/2013 of the Mannarkkad Police Station alleging that the victim had raised similar complaints against the accused in the above crime. Therefore, to substantiate his defence, the case diary in Crime No.1000/2013 is necessary. The learned Sessions Judge by the impugned order dismissed the application on the ground that the petitioner cannot summon the

Crl.R.P.No.291 OF 2021 3 entire case diary in Crime No.1000/2013. Being aggrieved by the said order, this revision petition is filed.

3. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondent.

4. On going through the impugned order, it

is seen that the court below dismissed the application principally for the reasons that the petitioner had not cited any witness and the intention of the petitioner was only to protract the trial.

5. The learned counsel appearing for the

petitioner submitted before this Court that the petitioner would be satisfied if the Section 164 statement of the victim and final report filed by the police in Crime No.1000/2013 of the Mannarkkad Police Station are summoned and proved through the competent witness.

6. Considering the statutory right of the Crl.R.P.No.291 OF 2021 4

petitioner to adduce defence evidence and that he has confined his relief to only summon the Section 164 statement of the victim and the final report in Crime No.1000/2013, I am of the firm opinion that the petitioner has to be given an opportunity to prove his defence in S.C No.454/2017, whatever be its worth, failing which it would cause prejudice to the petitioner. In the result, I am inclined to allow the Crl.R.P. in the following manner:

(i) The petitioner would be at liberty to file

appropriate application in S.C. No.454/2017, within one week from the date of receipt of a copy of this order, seeking to summon the Section 164 statement and the final report in Crime No.1000/2013 of the Mannarkkad Police Station, along with the witness list, and to summon the competent officer to prove the above said documents.

(ii) If such an application is filed, the court Crl.R.P.No.291 OF 2021 5 below shall issue summons to the witness mentioned in the said witness list to produce and prove the said documents.

(iii) The court below shall decide S.C. Sd/- C.S.DIAS JUDGE AL/-.

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