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Devine Mathew vs State of Kerala

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Court : Kerala Orders

Decided On : Aug-03-2021

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.MC/3430/2021

Appellant : Devine Mathew

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN TUESDAY, THE 3RD DAY OF AUGUST 2021 / 12TH SRAVANA, 1943 CRL.MC NO. 3430 OF 2021 AGAINST THE ORDER IN CRMP 1097/2021 OF I ADDITIONAL SESSIONS COURT, ERNAKULAM PETITIONERS/PETITIONERS/ACCUSED Nos.1 & 2: 1 DEVINE MATHEW, AGED 28 YEARS, SON OF MATHEW SEBASTIAN, KOORAN HOUSE, PERUMPADANNA KARA, PARAVUR, ERNAKULAM DISTRICT. 2 AKASH P., AGED 21 YEARS, S/o PRAKASH S.A., 'ANUGRAHA', PALIYAMNADA, CHENDAMANGALAM, ERNAKULAM DISTRICT, PIN-683512. BY ADV NIREESH MATHEW RESPONDENT/RESPONDENT/COMPLAINANT-STATE: STATE OF

KERALA REPRESENTED BYTHE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031. BY PUBLIC PROSECUTOR SMT. S.SEETHA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03.08.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.C.No.3430 of 2021 2

ORDER

Prima facie it appears that the order passed by the learned Sessions Judge did not disclose anything with respect to the mobile phones alleged to have been seized by the police during the course of investigation. It is not specified anywhere in the order whether it is a material object involved in the crime or not. But the learned Public Prosecutor fairly submitted that the same was sent for examination by expert and it would prima facie show that it is one of the material objects involved in the crime.

2. It is submitted that final report already filed, but it was not taken into consideration by the court at the time when the impugned order was passed. Hence the impugned

order is hereby set aside. The matter is remanded back to

the trial court for fresh consideration so as to verify whether it is a material object involved in the crime or Crl.M.C.No.3430 of 2021 3 not or whether it can be released for interim custody, for which the parties shall appear before the trial court on 12.08.2021. The Crl.M.C. is allowed in part accordingly. Sd/- P.SOMARAJAN JUDGE DMR/- Crl.M.C.No.3430 of 2021 4 APPENDIX OF CRL.MC 3430/2021 PETITIONERS' ANNEXURE ANNEXURE A TRUE PHOTOCOPY OF THE BILL DATED 15.6.2020. ANNEXURE B TRUE PHOTOCOPY OF THE PETITION IN CRL.M.P.NO.1097/2021 FILED BEFORE THE 1ST ADDL. SESSIONS COURT, ERNAKULAM DATED 30.6.2021. ANNEXURE C FREE COPY OF THE ORDER DATED 12.7.2021 IN CRL.M.P.NO.1097/2021 IN S.C.NO.289/2021 PASSED BY THE 1ST ADDITIONAL SESSIONS COURT, ERNAKULAM. ANNEXURE D TRUE

PHOTOCOPY OF THE DECISION REPORTED IN 2020(4) KLT 102. RESPONDENT'S ANNEXURE NIL // TRUE COPY // P.A. TO JUDGE

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