

Amal vs State of Kerala

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Court : Kerala Orders

Decided On : Apr-08-2021

Judge : Honourable Mr.Justice K.Vinod Chandran,Honourable Mrs. Justice M.R.Anitha

Appeal No. : WP(C)/19052/2020

Appellant : AMAL

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MRS. JUSTICE M.R.ANITHA THURSDAY, THE 08TH DAY OF APRIL 2021 / 18TH CHAITHRA, 1943 WP(C).No.19052 OF 2020(F) PETITIONER/S: AMAL AGED 34 YEARS W/O.MOHAMMED NISHAM A.A., FLAT NO.1073, SOBHA CITY, PUZHAKKAL, THRISSUR DISTRICT. BY ADVS. SRI.RENJITH B.MARAR SMT.LAKSHMI.N.KAIMAL RESPONDENT/S:

1 STATE OF KERALA REP. BY THE SECRETARY TO GOVT. HOME (B) DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM

PIN.695 001 2 DIRECTOR GENERAL OF PRISONS AND CORRECTIONAL SERVICES PRISONS HEADQUARTERS, POOJAPPURA, THIRUVANANTHAPURAM- 3 THE SUPERINTENDENT CENTRAL PRISON, POOJAPPURA, THIRUVANANTHAPURAM DISTRICT, PIN-680 010 R1-3 BY ADDL.DIRECTOR GENERAL OF PROSECUTION THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

08.04.2021, ALONG WITH WP(C).20901/2020(K), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN & THE HONOURABLE MRS. JUSTICE M.R.ANITHA THURSDAY, THE 08TH DAY OF APRIL 2021 / 18TH CHAITHRA, 1943 WP(C).No.20901 OF 2020(K) PETITIONER/S: AMAL AGED 34 YEARS W/O. MOHAMMED NISHAM.A.A.,FLAT NO.1073, SOBHA CITY, PUZHAKKAL, THRISSUR DISTRICT BY ADVS. SRI.RENJITH B.MARAR SMT.LAKSHMI.N.KAIMAL RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVT. HOME (B) DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM, PIN- 2 DIRECTOR GENERAL OF PRISONS AND CORRECTIONAL SERVICES, PRISONS HEADQUARTERS, POOJAPPURA, THIRUVANANTHAPURAM- 3 THE SUPERINTENDENT, CENTRAL PRISON, POOJAPPURA, THIRUVANANTHAPURAM DISTRICT,PIN-680 010 R1-3 BY ADDL.DIRECTOR GENERAL OF PROSECUTION R1-3 BY GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

08.04.2021, ALONG WITH WP(C).19052/2020(F), THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C).19052/2020, WP(C).20901/2020] Dated this the 8th day of April 2021

K. Vinod Chandran, J.

The learned counsel for the petitioner submits that there is an appeal provided against Annexure R3(C) order in W.P. (C)No.20901/2020 which remedy they would avail of. In such circumstances, we dismiss these writ petitions without any observations on merit. The appeal will be considered untrammelled by the dismissal of these writ petitions.

2. However, we have to notice that when the Criminal

Appeal was pending before a Division Bench, the writ petition was posted before a learned Single Judge, which essentially challenged the denial of parole and later the order passed rejecting the parole application. We have enquired with the Registrar (Judicial), who informs us that there are writ petitions filed, which, as per the High Court Rules, are posted before the Single Judge having roster. We are of the opinion that when a Criminal Appeal is pending before a Division Bench or a Single Bench, necessarily, the writ petitions filed seeking parole, also should be posted before

the Bench having roster for the Criminal Appeals. Otherwise, there would be chance of conflicting orders being passed by different Benches, on interim suspension of sentence and parole, both resulting in the release of the convict.

3. In such circumstances, we issue a direction to the

Registry to ensure that the pendency of Criminal Appeal is verified before a writ petition, seeking a mandamus to the Government for consideration of parole is posted before a Single Judge having roster. If a Criminal Appeal is pending, which, necessarily the petitioner should disclose in the writ petition, the W.P.(C) shall also be posted before the Bench having roster for Criminal Appeals.

These writ petitions are dismissed as withdrawn with the above observation. Sd/- K.VINOD CHANDRAN JUDGE Sd/- M.R.ANITHA SHG JUDGE APPENDIX OF WP(C) 19052/2020 PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE ORDER DATED 11.08.2020 IN CRL.M.A.NO.3/2020 IN CRL.A.NO.320 OF 2016. EXHIBIT P2 TRUE COPY OF THE PARTNERSHIP DEED OF THE M/S KINGS BEEDI COMPANY. EXHIBIT P3 TRUE COPY OF THE CHART OF THE NUMBER OF EMPLOYEES OF THE COMPANY DURING THE YEAR 2014 TO 2020. EXHIBIT P4 TRUE COPY OF THE BALANCE SHEET FOR THE F Y 2018-19 EXHIBIT P5 TRUE COPY OF THE BALANCE SHEET FOR THE F Y 2019-20 APPENDIX OF WP(C) 20901/2020 PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE ORDER DATED 11.08.2020 IN CRL MA NO.3/2020 IN CRL.A.NO.320 OF 2016 EXHIBIT P2 TRUE COPY OF THE PARTNERSHIP DEED OF THE M/S.KINGS BEEDI COMPANY EXHIBIT P3 TRUE COPY OF THE CHART OF THE NUMBER OF EMPLOYEES OF THE COMPANY DURING THE YEAR 2014 TO 2020 EXHIBIT P4 TRUE COPY OF THE BALANCE SHEET FOR THE FY 2018-19 EXHIBIT P5 TRUE COPY OF THE BALANCE SHEET FOR THE FY 2019-20 EXHIBIT P6 TRUE COPY OF THE NOTICE CALLING FOR THE STRIKE BY THE EMPLOYEES UNION

EXHIBIT P7 TRUE COPY OF THE HOLTER ECG REPORT SUMMARY

DATED 1/7/2008 ISSUED BY THE MEDICAL TRUST HOSPITAL, ERNAKULAM EXHIBIT P8 TRUE COPY OF THE DISCHARGE SUMMARY DATED CARDIAC SURGERY, KIMS HOSPITAL, THIRUVANANTHAPURAM EXHIBIT P9 TRUE COPY OF THE MEDICINE PRESCRIPTION DATED 25/2/2016 IN THE NAME OF THE CONVICT'S MOTHER EXHIBIT P10 TRUE COPY OF THE ECG REPORT DATED 16/2/2021 EXHIBIT P11 TRUE COPY OF THE MEDICAL CERTIFICATE DATED 27.2.2021 ISSUED BY THE CARDIOLOGIST, RAJAH CHARITABLE MEDICAL TRUST, THRISSUR. EXHIBIT P12 TRUE COPY OF THE MEDICAL CERTIFICATE DATED 13.3.2021 ISSUED BY THE CARDIAC ELECTROPHYSIOLOGIST AT LISIE HOSPITAL, ERNAKULAM EXHIBIT P13 TRUE COPY OF THE INTERIM ORDER DATED 19.3.2021 IN WP(C)NO.20901/2020 PASSED BY THIS HON'BLE COURT EXHIBIT P14 TRUE

COPY OF THE RECEIPT VOUCHER -IP ADVANCE DATED 21.3.2021 ISSUED
BY LISIE HOSPITAL, ERNAKULAM.

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