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**Harikrishnan vs State of Kerala**

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**SooperKanoon Citation** : sooperkanoon.com/1749159

**Court** : Kerala

**Decided On :** Jan-06-2020

**Judge** : Honourable Mr. Justice R. Narayana Pisharadi

**Appeal No.** : Crl.MC/1503/2019

**Appellant** : Harikrishnan

**Respondent** : State of Kerala

**Judgement** :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI MONDAY, THE 06TH DAY OF JANUARY 2020 / 16TH POUSHA, 1941 AGAINST THE ORDER/JUDGMENT IN CC 1167/2018 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (ECONOMIC OFFENCES),ERNAKULAM PETITIONER/ACCUSED NO.2: HARIKRISHNAN AGED 24 YEARS S/O.GOPALAKRISHNAN,VATTOLIPURATH(H), PETTANKUNN.P.O,ADIMALI,IDUKKI DISTRICT. BY ADVS. SRI.S.RAJEEV SRI.K.K.DHEERENDRAKRISHNAN SRI.V.VINAY SRI.D.FEROZE SRI.K.ANAND (A-1921) RESPONDENT/COMPLAINANT/STATE:

STATE OF KERALA REP.BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM-682031,(CRIME NO.352/2016 OF E T SOUTH POLICE STATION,ERNAKULAM DISTRICT). SRI E C BINEESH-PP THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 28.10.2019, THE COURT ON 06.01.2020 PASSED THE FOLLOWING: R. NARAYANA PISHARADI, J ---------- Crl.M.C No.1503 of 2019 ---------- Dated this the 6th day of January, 2020

## ORDER

The petitioner is the second accused in the case C.C No. Magistrate (Economic Offences), Ernakulam.

2. The offences alleged against the petitioner are under Section 420 read with 34 IPC and also under Section 10 read with 24(1)(a) and (b) of the Emigration Act, 1983.

3. The prosecution case is as follows: The first accused

conducted an institution for recruitment of persons for job abroad. There was no licence or certificate obtained by the first accused for conducting the recruitment agency. The passports of many persons were obtained and kept in the office of the establishment of the first accused. The passports were obtained from job aspirants on the promise that job would be arranged for them abroad. No job was arranged for any person. When some persons wanted to get back their passports, money was demanded for returning the passport.

4. The case was registered suo motu by the Sub Inspector,

Ernakulam Town South Police Station after conducting search of the establishment of the first accused and seizing passports of many persons from there. After completing investigation, chargesheet was filed against the first accused and the petitioner for the offences mentioned above.

5. This petition is filed under Section 482 Cr.P.C by the second accused for quashing the proceedings against him in the case.

6. Heard learned counsel for the petitioner and the learned Public Prosecutor.

7. Learned counsel for the petitioner would contend that there

is absolutely no material produced by the prosecution to prove that the petitioner had dishonestly induced any person to part with his passport or that he had promised any person that he would get job for him abroad and therefore, the offences alleged against the petitioner will not lie against him.

8. Admittedly, the petitioner was only a staff of the establishment conducted by the first accused. I have perused the copies of the statements of witnesses recorded by the investigating officer. No witness has stated that the petitioner has made any inducement to him to part with the passport. No witness has given statement to the police that the petitioner had offered or promised that he would arrange any job for such person abroad. No witness has given any statement to the police that the petitioner had deceived him

in any manner. Even if it is accepted that, as a staff of the establishment run by the first accused, the petitioner had obtained and kept the passports of some persons in the office of the establishment, it is not sufficient to implicate him in an offence punishable under Section 420 IPC.

9. Admittedly, the petitioner is not the person who was conducting the recruitment agency. Therefore, the offence alleged against him under the Emigration Act will also not lie against him.

10. In the aforesaid circumstances, continuation of the prosecution against the petitioner would be an abuse of process of the court. The proceedings against him are liable to be quashed by invoking the power of this Court under Section 482 Cr.P.C.

11. Consequently, the petition is allowed. The entire

proceedings against the petitioner alone in the case C.C No. Magistrate (Economic Offences), Ernakulam, are hereby quashed. Sd/- R. NARAYANA PISHARADI JUDGE lsn APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE I CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1167/2018 ON THE FILE OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT(ECONOMIC OFFENCES),ERNAKULAM. ANNEXURE II COPY OF FIR IN 352/2016 OF E T SOUTH POLICE STATION,ERNAKULAM DISTRICT. RESPONDENTS EXHIBITS: NIL TRUE COPY P.A TO JUDGE LSN

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