

Priya vs T.Ramakrishnan

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Court : Kerala Orders

Decided On : Mar-02-2020

Judge : Honourable Mr. Justice R. Narayana Pisharadi

Appeal No. : CrI.MC/1643/2020

Appellant : PRIYA

Respondent : T.Ramakrishnan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE R. NARAYANA PISHARADI MONDAY, THE 02ND DAY OF MARCH 2020 / 12TH PHALGUNA, 1941 CrI.MC.No.1643 OF 2020(E) CC 1129/2016 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,THRISSUR PETITIONER/ACCUSED: PRIYA AGED 34 YEARS D/O. BALAN, AMBADI HOUSE, MAPRANAM, MARUTHAYOOR, PAVARATTY , THRISSUR, PRESENT ADDRESS PAINKANNI PARAMBIL HOUSE, PUTHUMANASSERY, PAVARATTY, CHAVAKKAD, THRISSUR. BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENTS/COMPLAINANT AND STATE: 1 T.RAMAKRISHNAN AGED 66 YEARS, S/O. MADHAVAN NAIR, SIVAPRIYA, KUTTUMUCK,

RAMAVARMAPURAM, THRISSUR-680631. 2 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. SRI.C.K.PRASAD PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26.02.2020, THE COURT ON 02.03.2020 PASSED THE FOLLOWING: R.NARAYANA PISHARADI, J ***** Crl.M.C.No.1643 of 2020 ----- Dated this the 2nd day of March, 2020

ORDER

The petitioner is the accused in the case C.C.No.1129/2016 on the file of the Court of the Judicial First Class Magistrate-I,

2. The aforesaid case is one instituted upon the complaint filed against the petitioner by the first respondent for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3. It is stated in the petition that the marriage of the petitioner was dissolved on 31.12.2013 by the Family Court,

Thrissur. It is also stated that the petitioner is residing along with her minor child and her mother aged 63 years, who is suffering from schizophrenia. It is further stated that the petitioner owns only two cents of property with a small house therein. Recently, the petitioner has come to know that a warrant is pending against her in the case mentioned above and proceedings under Sections 82 and 83 Cr.P.C have been initiated against her. It is stated that the petitioner had not received any notice from the court below in the case.

4. In the aforesaid circumstances, the petitioner has prayed that the court below may be directed to release her on bail on her own bond in the event of her surrendering before the court in the case.

5. Heard learned counsel for the petitioner.

6. Bail is an absolute right of the accused in respect of bailable offences. But, when an accused has been declared as a proclaimed offender by the court, he may not be able to get the benefit of that right.

7. When an accused appears or when he is arrested and

produced before the trial court in a case of bailable offence, on granting him bail, the question as to whether he shall be directed to execute a bond with or without sureties, is a matter of discretion left with the learned Magistrate. In appropriate cases, the court may direct that the accused need only execute bond without any sureties. The issue in this regard has been elaborately discussed by this Court in *Aleyamma Mathew v. State of Kerala* : 2020 (1) KHC 763. The High Court cannot issue any positive direction to the court below that the accused shall be released on bail on executing bond without sureties.

8. Learned counsel for the petitioner submitted that the

address of the petitioner shown in the complaint filed against her is the address of her husband. Learned counsel for the petitioner pointed out that the marriage of the petitioner was dissolved as early as on 31.12.2013. It is also submitted that the husband of the petitioner was subsequently murdered by a group of people. Learned counsel for the petitioner would submit that the condition of the petitioner is very pathetic and she would not be in a position to secure sureties for her.

9. If the petitioner surrenders before the court below, it is for her to convince the learned Magistrate about her pathetic condition and her inability to obtain sureties. It is also for her to convince the learned Magistrate that she had not received any summons from the court and that she was not aware of the

proceedings initiated against her in the case. The trial court would be in a better position to verify the records of the case and to ascertain whether summons had been actually served on the accused or not. If the petitioner is able to convince the learned Magistrate that she had not received summons from the court to appear in the case, I do not find any ground to assume that the

learned Magistrate would adopt any improper or illegal procedure.

10. Since the prayer made in the petition cannot be allowed as such, the petition is liable to be dismissed.

11. Consequently, the petition is dismissed with the

aforesaid observations. (sd/-) R.NARAYANA PISHARADI, JUDGE jsr APPENDIX PETITIONER'S EXHIBITS: ANNEXURE A TRUE COPY OF THE COMPLAINT IN CC NO.1129/2016 ON THE FILE OF THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE I, ANNEXURE B TRUE COPY OF THE ORDER IN OP NO.1202/2013 OF THE FAMILY COURT, THRISSUR DATED 31.12.2013. ANNEXURE C TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN MATRHUBHUMI DAILY ON 30.4.2018. ANNEXURE D TRUE COPY OF THE DISCHARGE SUMMARY OF MEENAKSHI ISSUED FROM THE NEW MEDICAL COLLAGE HOSPITAL, MULAMKUNNATHUKAVU, ANNEXURE E TRUE COPY OF THE RATION CARD NO.1844 021736 IN ARD NO.52. RESPONDENTS' EXHIBITS: NIL TRUE COPY PS TO JUDGE

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