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Sreekath vs State of Kerala

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Court : Kerala Orders

Decided On : Nov-25-2020

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : Crl.MC/5396/2015

Appellant : Sreekath

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS WEDNESDAY, THE 25TH DAY OF NOVEMBER 2020 / 4TH AGRAHAYANA, 1942 Crl.MC.No.5396 OF 2015 CRIME NO.136/2015 OF Sreekrishnapuram Police Station , Palakkad PETITIONER/S: 1 SREEKATH AGED 33 YEARS S/O.KUTTISANKARA GUPTAN, VALAPPILTHODI HOUSE, VAYILLAMKUNNU, KADAMPAZHIPURAM AMSOM DESOM, OTTAPALAM TALUK, PALAKKAD DISTRICT-678633. 2 KUTTISANKARA GUPTAN AGED 68 YEARS S/O.APPU GUPTAN, VALAPPILTHODI HOUSE, VAYILLAMKUNNU, KADAMPAZHIPURAM AMSOM DESOM, OTTAPALAM TALUK, PALAKKAD DISTRICT-678633.

BY ADV. SRI.RAJESH SIVARAMANKUTTY RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. 2 DEVIKA NAIR W/O.RAJAGOPALAN NAIR, SIVAPRIYA, SCOLAR TOWER,KALPATHY, PALAKKAD DISTRICT-678001. R1-2 BY ADV. SRI.P.S.APPU R1 BY ADV. SRI.A.R.NIMOD R1 BY ADV. SRI.T.C.SURESH MENON OTHER PRESENT: SRI.SAIGI JACOB PALATTY, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 25.11.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No.5396 OF 2015 2

ALEXANDER THOMAS, J.

========== Crl.M.C. No.5396 of 2015 ---------- Dated this the 25th day of November, 2020

ORDER

The prayer in the aforecaptioned Criminal Miscellaneous case filed on 13.8.2015 is as follows : ...to quash the entire proceedings against the petitioners in Crime No. Annexures-A, B and D.

2. The main challenge made in this Crl.M.C. is directed against

the impugned Annexure-B FIR in Crime No.136/2015 of Sreekrishnapuram Police Station, Palakkad for offences punishable under Secs. 420, 468, 471 and 34 of the IPC and Secs. 13 and 17 of the Moneylenders Act, 1947. Subsequently, during the pendency of this Crl.M.C., the police has completed the investigation in this case and has filed final report/charge sheet on 31.7.2015 and thereafter, the Judicial First Class Magistrate Court, Ottappalam has taken cognizance and the case is now pending as CC No.1339/2015. Thereafter, the petitioner has separately filed Crl.M.C. No.6733/2016 on 5.10.2016 challenging the said final report/charge sheet which has led to the pendency of the said calendar case. Since the stage of FIR has already been over, the challenge made in Crl.M.C. No.5396/2015 has become practically redundant and superfluous. Hence, without prejudice to the contentions available to the Crl.MC.No.5396 OF 2015 3 petitioner in law, which could be raised

by him in Crl.M.C. No.6733/2016 the present Crl.M.C. No.5396/2015 need not be kept pending any longer and is only to be closed. Hence, liberty is accorded to the petitioner to raise all contentions available to him in law in the matter in Crl.M.C. No.6733/2016. With the said liberty, the above Crl.M.C. will stand disposed of as infructuous. Sd/- ALEXANDER THOMAS JUDGE SKS Crl.MC.No.5396 OF 2015 4 APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE P1 ANNEXURE-A: CERTIFIED COPY OF THE STATEMENT OF 2ND RESPONDENT RECORDED BY THE S.I. OF POLICE, SREEKRISHNAPURAM POLICE STATION ON 14.2.2015. ANNEXURE P2 ANNEXURE-B: CERTIFIED COPY OF THE FIRST INFORMATION REPORT AND PRODUCED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, OTTAPALAM. ANNEXURE P3 ANNEXURE-C: TRUE COPY OF THE COMPLAINT AS S.T.NO.1/2014 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE-I, OTTAPALAM. ANNEXURE P4 ANNEXURE-D: TRUE COPY OF THE NOTICE DATED 30.7.2015 ISSUED BY S.I. OF POLICE, SREEKRISHNAPURAM POLICE STATION TO THE PETITIONERS.

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