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Subin vs State of Kerala

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Court : Kerala

Decided On : Aug-30-2019

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Crl.MC/1629/2018

Appellant : SUBIN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V FRIDAY, THE 30TH DAY OF AUGUST 2019 / 8TH BHADRA, 1941 Crl.MC.No.1629 OF 2018 CC NO.736/2015 ON THE FILES OF THE JUDICIAL MAGISTRATE OF FIRST CLASS, IDUKKI IN CRIME NO.84/2013 OF IDUKKI POLICE STATION PETITIONER: SUBIN, S/O.JACOB, KUZHIKKATTU HOUSE, THADIYANPADU KARA, IDUKKI VILLAGE. BY ADV. SRI.P.DEEPAK RESPONDENTS:

1 STATE OF KERALA, REPRESENTED BY S.I. OF POLICE, IDUKKI, THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

KOCHI - 31. 2 V.C.JOSEPH, S/O.CHACKO, VADAKKEKUDIYIRIPPIL HOUSE, UZHAVOOR VILLAGE - 683 515. 3 ANTO, S/O.THOMAS, CHIRAYATH HOUSE, ELTHURUTHY KARA, ARANJATTUKKARA VILLAGE, THRISSUR - 680 618. 4 M.H.SIDDIQ, S/O.HASSAN KUNJU, MARATTIKUNNEL HOUSE, THODUPUZHA VILLAGE, IDUKKI DISTRICT - 685 585. R1 BY ADDL.DIRECTOR GENERAL OF PROSECUTION R2 BY ADV. SRI.G.HARIHARAN BY ADV. SRI.PRAVEEN.H. R4 BY ADV. SMT.REKHA NAIR R3 BY ADV. SRI.K.A.SREEJITH

SRI. M.S BREEZ SR. PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 30.08.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No.1629 OF 2018 2

ORDER

The instant petition is filed challenging the order passed by the learned

Magistrate, rejecting the application filed by the petitioner herein to order further investigation under Section 173(8) of the Cr.P.C. While dismissing the application, the learned Magistrate took note of the decision of the Apex Court in Amrutbhai Shambhubhai Patel v. Sumanbhai Kantibhai Patel 1, which laid down that during the post cognizance stage, the learned Magistrate has no power to order further investigation.

2. Heard.

3. I find no reason to unsettle the order passed by the learned Magistrate.

4. At this stage, the learned counsel appearing for the petitioner

submitted that coercive proceedings have been initiated and the case now stands posted to 15.10.2019. He prays that necessary directions be issued to the court below to consider his application for bail on his surrender.

5. Having considered the facts and circumstances and the submissions

made across the Bar, I direct the petitioner to appear before the learned Magistrate within a period of two weeks from today. If he files an application seeking to recall the warrant and grant of bail, the same shall be considered and 1 [2017(1) KLT 707 (SC)] Crl.MC.No.1629 OF 2018 3 orders shall be passed on the same day itself. Till such time, the coercive proceedings, if any, shall be kept in abeyance.

This application will stand disposed of as above. Sd/- RAJA VIJAYARAGHAVAN V., JUDGE IAP //TRUE COPY// P.A.TO JUDGE Crl.MC.No.1629 OF 2018 4 APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE-A: A TRUE COPY OF THE FINAL REPORT IN CRIME NO.84/13 OF IDUKKI POLICE STATION. ANNEXURE-B: A TRUE COPY OF THE APPLICATION FOR FURTHER INVESTIGATION DATED 28/03/2017. ANNEXURE-C: CERTIFIED COPY OF THE ORDER DATED CC.NO:736 OF 2015. RESPONDENTS' EXHIBITS: NIL

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