

Somarajan Vs. State of Kerala

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Court : Kerala

Decided On : Jul-21-2015

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : Somarajan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS TUESDAY, THE 21ST DAY OF JULY 2015 30TH ASHADHA, 1937 CrI.MC.No. 301 of 2015 ()
----- CC. NO.488/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KARUNAGAPPALLY. CRIME NO. 297/2012 OF KARUNAGAPPALLY POLICE STATION, KOLLAM DIST.
PETITIONER/ACCUSED: ----- SOMARAJAN, AGED 50 S/O.NANU, VADAKKETHIL VEETIL, THUNDUTHARAYIL, THEKKUMMURIYIL, PULIYOORVANCHI, THODIYOOR VILLAGE, KARUNAGAPPALLY, KOLLAM DISTRICT. BY ADVS.SRI.NAGARAJ NARAYANAN, SRI.SAIJO HASSAN, SRI.BENOJ C AUGUSTIN, SRI.SEBIN THOMAS. RESPONDENT/STATE: -----
1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. BIJU, AGED 34 YEARS, S/O.BHARGAVAN, THUNDUTHARAYIL HOUSE, THEKKUM MURI, PULIYUR VANJI, THODIYUR VILLAGE, KOLLAM DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN. R2 BY ADVS. SRI.M.K.CHANDRA MOHANDAS, SRI.S.SATHYANADAN PILLA, SRI.PRATHEEK VISWANATHAN. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. CrI.MC.No. 301 of 2015 APPENDIX PETITIONER'S ANNEXURES:- ANNEXURE A1 : TRUE COPY OF THE FIR REGISTERED AGAINST THE PETITIONER IN CRIME NO.297/2012 OF KARUNAGAPPALLY POLICE STATION, KOLLAM. ANNEXURE A2 : TRUE COPY OF THE CHARGE SHEET DATED 24/02-2012 IN C.C.NO.488/2012. ANNEXURE A3 : TRUE COPY OF THE POST MORTEM REPORT DATED 28/11-2011 ISSUED BY DR.AJITH P. ANNEXURE A4 : TRUE COPY OF THE LAB REPORT DATED 29/12-2011. RESPONDENT'S ANNEXURES:- NIL. //TRUE COPY// P.S.TO JUDGE rs. ALEXANDER THOMAS, J.

===== CrI.M.C.No. 301 of 2015 ===== Dated this the 21st day of July, 2015

ORDER

The prayer in this CrI.M.C. is as follows: "..... to quash Annexure 1 and Annexure II and all proceedings in C.C.No.488/2012 on the file of the Judicial First Class Magistrate Court, Karunagappally arising from Crime No.297/2012 of Karunagappally Police Station, Kollam District for the offence under Sections 447, 429 of I.P.C. against the petitioner and all further proceedings against the petitioner pursuant thereto so as to secure the ends of justice." 2. As directed by this Court, the respondent Sub Inspector of Police, Karunagappally, has filed a statement dated 21.1.2015 in this case and the contents of the said statement read as follows: "It is humbly submitted that this above petition was filed by Sri.Somarajan, S/o.Nanu, Thundutharayil vadakkathil veedu, Puli south muri, Thodiyoor village praying for a direction to quash the final report and all proceedings on the file of the Judicial First Class Magistrate Court, Karunagappally. This is a court endorsed case filed by one Biju, S/o.Bhargavan, Thundutharayil, Puli South, Thodiyoor as CMP143212 which received for investigation on 17/02/2012. Based on this a case was registered as Cr.297/12,

U/s.447, 429 I.P.C. The case is that Biju is alleging that on 28.11.2011 at 02.00 hrs the petitioner of this case Sri Somarajan has trespassed to the compound of the Biju and entered the cattle shed and poisoned willfully the two cows in it, one of them was of Australian HF Breed which worth Rs.70,000/- and another one of worth Rs. 40,000/- and the two cows were found dead. Crl.M.C.301/15 - :

2. :- Investigation were(sic) conducted h (sic) questioned the witnesses and prepared the scene mahazar. The dead bodies of the cows were sent to postmortem examination and Dr Ajithkumar conducted the postmortem examination. The postmortem results of the cows revealed that the death is due to asphyxia due to multiple organ failure (suspicion of malicious poisoning). The complainant Biju also stated that he became suspicious about his neighbor, Somarajan because on 28/11/2012 at 02.00 hrs the cows made strange sounds and while Biju come out to watch the cow, the Somarajan was seen in a suspicious circumstances near the cattle shed and while Biju asked about it he left the place. At 06.00 hrs the cows became restless and fell down and dead. He also stated that within three years he also lost about 7 cows in a similar way and in all these time he found the presence of the Somarajan in suspicious circumstances. It is also revealed that when the complainant filed the case the Somarajan also sent mediators to settle the case stating that he had done a mistake and he was ready to pay the amount of the cows to Biju. On investigation it is revealed that Sri Somarajan has trespassed to the compound of the Biju and entered the cattle shed and poisoned wilfully the two cows in it, one of them was Australian HF Breed which worth Rs.70,000/- and another one of worth Rs. 40,000/- and the two cows were found dead. chargeInvestigation24/02/2012. of the case was completed and the case was sheeted on The case is now pending trial before the court as CC48812. It is humbly submitted that the petitioner has done a grave crime by giving severe poisons to the cows which was a harmless animal resulting its death. It is also submitted that the quashing of the FIR will lead the petitioner to do similar crimes in future." 3. Heard Sri.Nagaraj Narayanan, learned counsel appearing for the petitioner, Sri.Chandramohan Das, learned counsel appearing for the 2nd respondent and the learned Public Prosecutor appearing for the 1st respondent State of Kerala. Crl.M.C.301/15 - :

3. :- 4. The learned counsel for the petitioner also points out that the version projected by the prosecution on the basis of Anx.A-3 postmortem report, is falsified by Anx.A-4 lab report, whose results (given on page 43 of the paper book) clearly certify as "Bipolar organisms suggestive of Haemorrhagic Septicaemia could be detected" and that this is clearly indicative that the incident is not in any manner related to any malicious poisoning, etc. Further the learned counsel for the petitioner submits that the petitioner may be given liberty to approach the court below with an appropriate application seeking the remedy of discharge and that he would advance various tenable contentions in that regard and that the court below may be directed to consider such application for discharge that may be filed by the petitioner. In the light of the aforesaid submissions made by the learned counsel for the petitioner, liberty is granted to the petitioner to move an appropriate application seeking the remedy of discharge before the competent court below concerned, provided the stage for consideration of such plea of discharge is not yet over, in which eventuality, after reasonable opportunity of hearing to the petitioner through his counsel and the learned Public Prosecutor, the court below will take appropriate decision thereon, after CrI.M.C.301/15 - :

4. :- specifically adverting to each of the contentions that may be advanced by the petitioner, including the aforestated contentions. Accordingly, this CrI.M.C. is disposed of with the aforestated liberty. Sd/- sdk+ ALEXANDER THOMAS, JUDGE ///True copy/// P.S. to Judge

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