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Court : Kerala

Decided On : Jan-19-2012

Judge : P.S. Gopinathan

Appeal No. : CRMC.No. 161 of 2012

Appellant : Rajan

Respondent : The State of Kerala Represented by the Public Prosecutor, Ernakulam and Others

Judgement :

In this petition under Section 482 of the Code of Criminal Procedure, the petitioner, who is the 4th accused in C.C. 19 of 2011 on the file of the Judicial Magistrate of the First Class - 1, Kottayam, seeks an order to quash Annexure-1 final report wherein the petitioner, along with others are accused for offence under Section 294 (b) r/w Section 34 of the Indian Penal Code. Learned counsel appearing for the petitioner submitted that the petitioner is even prepared to plead guilty. But the learned magistrate insisted for the personal attendance of the petitioner.

The maximum sentence that can be awarded against the petitioner is only an imprisonment for three months and fine. That being the nature of offence, the case can even be tried by following the procedure under Chapter XXI of the Code of

Criminal Procedure for summary trial. In the above circumstances, I find merit in the submission of the learned counsel for the petitioner that the petitioner should be allowed to plead guilty in absence. At the same time, I find no merit in the submission that the trial court insisted for the personal attendance of the petitioner. In the event there is duly executed vakalath and the counsel representing the petitioner, it is not necessary to insist the attendance of the petitioner, that too in a case where the accused pleads guilty. However, there is no material on record to come to a conclusion that any vakalath was filed before the trial court or an application to plead guilty through lawyer was filed. Therefore, I find that the petitioner has rushed to this Court without seeking his remedy available before the trial court.

In the above circumstances, this petition is disposed of with liberty to the petitioner to apply before the trial court with due vakalath to permit him to plead guilty.

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