
(2010) 12 KL CK 0186
In the High Court Of Kerala
Case No : Criminal M.C. No. 4712 of 2010

David Morise

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 21-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 160, 482

Citation : (2011) 2 Crimes 602 : (2011) 1 KLT 246

Hon'ble Judges : Sasidharan Nambiar, J

Bench : Single Bench

Advocate : P.K. Soyuz, for the Appellant; I.V. Pramod, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

M. Sasidharan Nambiar, J.—Petitioner is an Engineer working in Hindustan Machine Tools Ltd. This petition is filed u/s 482 of Code of Criminal Procedure to quash Annexure-3 notice issued by Deputy Superintendent of Police, Crime Detachment, Thiruvananthapuram Rural directing the Petitioner to appear before his office at Thiruvananthapuram in the enquiry being conducted in Crime No. 108/2008, registered under the caption "man missing", on 2.12.2010.

2. Learned Counsel appearing for the Petitioner and learned Public Prosecutor were heard.

3. Section 160 of Code of Criminal Procedure enables any police officer making an investigation under Chapter XII of Code of Criminal Procedure to require the attendance before himself of any person being within the limits of his own or any adjoining station, who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case and such person shall attend as so required. Section 160 authorises an officer investigating a case, to require the attendance before himself only of a person within the limits of his own or any adjoining station.

4. Petitioner is, admittedly, a resident of Ernakulam. He is also working at Ernakulam. By virtue of the powers u/s 160 of Code of Criminal Procedure, Deputy Superintendent of Police, though, can require a person to attend his office, when Petitioner is neither a resident within the limits of the Investigating Officer or the adjoining places, he cannot be directed to appear before him. In such circumstances, Annexure-3 notice can only be quashed.

Petition is allowed. Annexure-3 notice is quashed. But, that does not mean that Investigating Officer cannot question the Petitioner or record his statement. Investigating Officer has to approach the Petitioner and record the statement.