
(2011) 05 KL CK 0186
In the High Court Of Kerala
Case No : Criminal M.C. No. 1566 of 2011

Foumi Meeran

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 30-05-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 317

Citation : (2011) 05 KL CK 0186

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : Renjith B. Marar, for the Appellant; No Appearance, for the Respondent

Judgement

Thomas P. Joseph, J.—Learned Public Prosecutor takes notice for the Respondent. Petitioner is the third accused in C.C. No. 546 of 2002 of the Court of learned Judicial First Class Magistrate, Ranni for offence punishable under the Prevention of Food Adulteration Act and the Rules. While accused 1 and 2 were acquitted, Petitioner was convicted and sentenced to undergo imprisonment and payment of fine. Petitioner challenged that conviction and sentence in CrI. Appeal No. 24 of 2007. Learned Additional Sessions Judge, Fast Track-II, vide Annexure-I, judgment allowed the appeal, set aside the sentence and conviction and remanded the case to the Court of learned Judicial First Class Magistrate, Ranni for further examination of Petitioner u/s 313 of the Code of Criminal Procedure (for short, "the Code") with reference to the incriminating circumstances including Ext.P21 and D1 and reappraisal of the said documents in the light of the observations made by the learned Additional Sessions Judge. Accordingly Petitioner appeared before the learned Judicial First Class Magistrate, Ranni and his further examination u/s 313 of the Code was over (as the learned Counsel submits). The case was then posted for hearing and submission of written argument notes. On that day, Petitioner on account of unavoidable reasons could not appear and thereon her counsel made an application to condone her absence u/s 317 of the Code. It is submitted that the said application was dismissed and

non bailable warrant was issued. Now the case is posted on 31.05.2011. Petitioner apprehends that on her appearance she may be remanded to judicial custody. learned Counsel submitted that since all the proceedings are over and what is required is only hearing and submission of written argument notes if any, remand of Petitioner is not required. It is also submitted that Petitioner is ready to argue the case and submit argument notes if any on 31.05.2011. learned Counsel however prayed that a direction may be issued to the learned Magistrate, Ranni to dispose of the application for bail/recall of warrant on 31.05.2011. I have heard learned Public Prosecutor also.

2. In the light of the decision of the Division Bench of this Court in *Martin v. State of Kerala* 2004(2) KLT 103 no such direction as prayed for could be issued by this Court. But circumstances stated above are matters which learned Magistrate has to look into. Learned Magistrate has to consider whether there is any necessity to remand Petitioner in judicial custody merely for the reason that she was absent on a particular day. Having regard to the circumstances stated learned Magistrate is directed to dispose of the application for bail/recall of warrant as early as possible in case any such application is preferred when Petitioner appeared before the learned Magistrate. Warrant of arrest issued to the Petitioner will stand in abeyance for a period of one week or till Petitioner appears before the learned Magistrate whichever is earlier so that Petitioner can appear before the learned Magistrate and seek regular bail/recall of warrant.

This petition is disposed of above.