

(1999) 06 KL CK 0005
In the High Court Of Kerala
Case No : Criminal M.C. No. 1699 of 1999

Manikandan

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 21-06-1999

Acts Referred:

Kerala Abkari Act, 1077 — Section 15C

Citation : (1999) 2 KLJ 188

Hon'ble Judges : K.V. Sankaranarayanan, J

Bench : Single Bench

Advocate : P. Vijaya Bhanu and S.R. Manoj, for the Appellant; C.M. Suresh Babu (Public Prosecutor), for the Respondent

Final Decision : Allowed

Judgement

K.V. Sankaranarayanan, J.—The three petitioners are accused persons in C.C.No.27/98 on the file of the Judicial Magistrate of the First Class, Wadakkancherry. The case is charge sheeted by the Sub Inspector of Police, Wadakkancherry for an offence under Sec.15C of the Abkari Act on the basis that they were found to be consuming liquor from a public place. The prayer in this petition is to quash the charge sheet. I heard learned counsel for the petitioner and the Public Prosecutor and also perused the records produced.

2. The charge sheet in this case is produced as Annexure B. The first information statement and the charge sheet show that on 22-12-1998 the Assistant Sub Inspector of Police, Wadakkancherry found a maruthi car parked on the road near the Vyasa College Bus Stop. Accused 2 and 3 were inside the car. The first accused was outside. They were consuming liquor. The case is registered on the basis of his report. Now, it is contended for the petitioners that the alleged offence was not committed in a public place and hence the provisions in Sec.15C of the Act are not attracted. The argument has to be accepted as regards petitioners 2 and 3 who were found inside the car only. Explanation 1 to Sec.15C defines a "public place" as "a street, court, police station etc." It includes a public

passenger vehicle. Explanation II makes it clear that the term "public passenger vehicle" does not include a "vehicle which carries passengers for hire or reward under a contract". So even taxi vehicles will be excluded. A private car even on the road apparently cannot come within the definition. Hence, a private car even parked by the side of a road cannot be treated as a "public place". So the charge as against petitioners 2 and 3 (accused 2 and 3) will not lie. It is liable to be quashed. However, the allegation is that the first accused was found on the road itself. So, he has necessarily to stand trial. He can take up his defences before the trial court.

For the reasons stated above, this petition is allowed quashing the complaint as against petitioners 2 and 3 (accused 2 and 3) alone.