
(2012) 07 KL CK 0282

In the High Court Of Kerala

Case No : Criminal M.C. No. 1915 of 2007

M.G. Mohanakumar Pillai, Varghese Thomas and M.G. Sunil
Kumar

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 23-07-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2012) 07 KL CK 0282

Hon'ble Judges : P.S. Gopinathan, J

Bench : Single Bench

Advocate : V. Philip Mathews, for the Appellant; A. Lowsy, Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice. P.S. Gopinathan

1. The petitioners, who are accused Nos. 4 to 6 in Crime and Occurrence No. 30/2007 of Thiruvalla Excise Range, seeks an order to quash Annexure 2 to 4. Annexure 2 is the Crime and Occurrence Report accusing offence u/s 8(1) and (2) of the Abkari Act. As per Annexure 2, only three accused were identified. Annexure 3 is the seizure mahazar. As per Annexure 2 and 3, 17.4 litres of arrack was seized from the toddy shop No. 28/06-07 of Edakkadu. The 4th accused is shown as licensee of toddy shop bearing No. 28/06-07 of Edakkadu. Annexure 1 is the licence. According to the learned counsel for the petitioners, in Annexure 4 order served upon the petitioners, it is mentioned that there were 6 accused and the petitioners were alleged as the licensees of the shop and they were asked to show cause for not ordering closing down of the toddy shop in view of the seizure of arrack. However, there is no material on record to come to a conclusion that the petitioners were arrayed as accused. Since the investigation of the case was stayed, there was no progress in the investigation and it is not known as to whether the petitioners are arrayed as accused. At present, I find no

reason to disbelieve the prosecution regarding seizure of 17.400 litres of arrack from the toddy shop. In the above circumstance, I find no reason to invoke jurisdiction u/s 482 of the Code of Criminal Procedure. Therefore, this petition is dismissed without prejudice to the defence of the petitioners and with liberty to seek discharge in the event a final report is filed accusing the petitioners with the offences alleged and any ground for discharge exists.