
(2010) 07 KL CK 0116
In the High Court Of Kerala
Case No : Criminal M.C. No. 3240 of 2007

P. Ravi

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 29-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Kerala Abkari Act, 1077 — Section 55

Citation : (2010) 07 KL CK 0116

Hon'ble Judges : Pius C. Kuriakose, J

Bench : Single Bench

Advocate : Saju J. Vallyara, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Pius C. Kuriakose, J.—The petitioner who is arraigned as fourth accused in Annexure-B Final Report submitted by the Walayar Police in a case involving commission of offence u/s 55(a) of the Abkari Act has filed this petition u/s 482 of the Cr.P.C. for quashing Annexure-B to the extent it relates to him. According to him, he was arraigned as an accused only because he happened to be the registered owner of the vehicle having Registration No. KL-01-N/9333 an airbus from which the contraband Articles 71 bottles of foreign liquor was being transported from Tamilnadu to Kerala state. He places strong reliance on judgment of this Court in Sooraj v. Excise Inspector 2002 (1) KLJ 739 and Sony C. Mathew Vs. State of Kerala, and contends that just because he happened to be the registered owner of the vehicle from which liquor is seized, he is not liable to be convicted u/s 55(a). Sri. Saju J. Vallyara, the learned Counsel for the petitioner as well as Smt. Rekha Nair, the learned Public Prosecutor would address arguments before me Sri. Saju drew my attention to the judgments in Sooraj v. Excise Inspector 2002 (1) KLJ 739 and Sony C. Mathew Vs. State of Kerala, . He also took me through various exhibits particularly Annexure-B. I am convinced by Annexure- B and other materials produced along with the CrI.M.C.

that the prosecution did not have even an allegation that the petitioner had any role in the matter of commission of the offence u/s 55(a). He has been arraigned obviously because of the reason that he happens to be the registered owner. A reading of Annexure-C order passed by the Sessions Court in CrI.R.P. No. 87/04 which was filed by the petitioner challenging the notice which was issued to him will reveal that the petitioner was not even arraigned as an accused in the FIR to begin with. It was somebody else, one Mr. Mohanan who was arraigned at that time. It seems that Mohanan was guilty of commission of some other offence of his own, but for reasons which are not presently known, Mohanan has been substituted by the present petitioner who concededly is the registered owner of the vehicle. I find much merit in the submission of the learned Counsel for the petitioner founded as they are on the judgments of this Court cited supra. The petition has to succeed. Annexure-B Final Report to the extent it arraigns the petitioner as accused No. 4 is quashed.

The CrI.M.C. is thus, allowed.