

(2012) 12 KL CK 0048

In the High Court Of Kerala

Case No : Criminal M.C. No. 3573 of 2012

Sreekanth, "Pushpavilasam", Mahattikkavala,
Padinjattussery, Kaviyoor VIA, Pathanamthitta District

APPELLANT

Vs

The State of Kerala and Mr. Sankar

RESPONDENT

Date of Decision : 03-12-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 308

Citation : (2012) 12 KL CK 0048

Hon'ble Judges : S.S. Satheesachandran, J

Bench : Single Bench

Advocate : C.R. Sivakumar and Sri. John Thitheemos, for the Appellant; R. Ranjith, Public Prosecutor for R1 and Sri. J. Abhilash, for R2, for the Respondent

Judgement

S.S. Satheesachandran, J.—Petitioner is the accused in a split up case pending on the file of the Additional District & Sessions Judge (Adhoc) Fast Track-I, Pathanamthitta. With some other accused, on a report filed by the police, he was indicted of offences punishable under Sections 143, 147, 148, 149, 324 and 308 r/w Section 149 of the Indian Penal Code. While the trial proceeded against some of the accused, petitioner remained at large. That trial against the co-accused, some of them, ended in their acquittal. Subsequently, petitioner surrendered before the court and the split up case against him now awaits trial. While enlarging him on bail, he was directed to produce his passport before the court. He moved an application for release of that passport. That was turned down by the learned Sessions Judge who, then exercised charge in view of the absence of presiding officer of the Fast Track Court concerned. That application was turned down by the Sessions judge, who, however, taking note of the pleas made by the petitioner, ordered for transfer of the case to Fast Track-I of the same station, and, thus, the case is now pending before that court. Petitioner has settled the matter with the de facto complainant, who is shown as the second respondent in the petition, is the case canvassed for to quash the criminal proceedings against

him exercising the inherent powers of this court, u/s 482 of the Code of Criminal Procedure, for short, "the Code". Second respondent is also represented by a counsel. Previous acquittal rendered in favour of some of the accused proceeded against in the same case, is also banked upon with the composition entered with the de facto complainant for quashing the criminal proceedings against the petitioner by his counsel. Those circumstances projected cannot be accepted as sufficient grounds to exercise the inherent powers of this court for the relief canvassed. Inherent powers of this court can be invoked only to give effect to the orders of the Code or to prevent abuse of process of the court or to advance the ends of justice. Where cognizance of grave offences exclusively triable by a Sessions Court has been taken on a report filed by police after investigation of a crime, in the absence of exceptional circumstances invoking of the inherent powers of this court to quash the criminal proceedings against the persons proceeded against cannot be resorted to. However, taking note of the submissions made by the counsel that the family of the petitioner consisting of his wife and a child who suffers from "autism" in a gulf country, Dubai, where he has employment, and, now, that he is prevented from going to that place on account of the condition imposed, and production of passport, for his release on bail, I find, some directions are called for an expeditious trial of the case. True, there may be some fault on the part of the petitioner for the case against him being split up and proceeded separately. That occurred on account of his non-appearance when the trial proceeded against the co-accused. However, that cannot be given too much significance at this stage in view of the special circumstances canvassed by him as indicated above. Considering the aforesaid circumstances, the following directions are issued. The learned Additional Sessions Judge (Adhoc) Fast Track-I shall complete the pre-trial proceedings, if it is not over, without any further delay and schedule the case for trial so that such trial can be completed within an outer limit of six weeks from the date of receipt/production of a copy of this order. In case, for any reason, the trial cannot be proceeded as indicated above, the learned Additional Sessions Judge shall consider any application moved by the petitioner for permitting him to go abroad by releasing his passport temporarily for a period to be fixed, subject to such conditions as may be essential to secure his presence at a later stage for trial. If any permission is granted to him to go abroad by releasing his passport, then, the period granted shall not exceed more than six months from the date of such orders. Further, adequate conditions shall be imposed including furnishing of cash security as may be found reasonable by the learned Additional Sessions Judge for release of passport and also permission to go abroad for a limited period. Petitioner shall also furnish an undertaking that he shall comply with whatever directions issued by the court, for enabling him to go abroad for the temporary period on release of his passport, by orders of the court. Directions as above need be considered only if the trial cannot be completed within six weeks from the date of receipt/production of a copy of this order.

2. I make it clear that the orders passed by the Sessions Judge in charge of the

Additional Sessions Judge, (Adhoc) Fast Track-II, Annexure-6, shall not stand in the way of the learned Additional Sessions Judge, (Adhoc) Fast Track-I in passing of appropriate orders as indicated above. Subject to the above directions, the petition is disposed of.

Hand over a copy of the order.