

(2025) 01 KL CK 1833

In the High Court Of Kerala

Case No : Criminal Revision Petition No. 1208 Of 2017

Thrivikraman Pilla

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 29-01-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 258
Foreigners Act, 1946 — Section 7, 7(3), 14

Citation : (2025) 01 KL CK 1833

Hon'ble Judges : G. Girish, J

Bench : Single Bench

Advocate : Iype Joseph, V.Manoj Kumar, S.Mohan Kumar, Sangeetharaj. N.R

Final Decision : Dismissed

Judgement

G. Girish, J

1. The accused in C.C.No.2274/2016 on the files of the Judicial First Class Magistrate Court (Temporary), Neyyattinkara, has filed this revision challenging the order dated 03.08.2017 of the said court dismissing a petition filed by him to stop the proceedings under Section 258 of the Code of Criminal Procedure, 1973(in short, 'Cr.PC').

2. The aforesaid case originated from the First Information Report registered against the petitioner as Crime No.1111/2011 by the Sub Inspector of Police, Kovalam, in respect of the offence under Section 7 read with Section 14 of the Foreigners Act, 1946. The allegation against the petitioner was that while he was working as the Manager of a hotel by name 'Park International' in Harbour Junction, Vizhinjam, he accommodated a Russian citizen in that hotel without maintaining the necessary records showing the details of the above person, and also omitted to submit the 'C forms' to the Police Station in respect of the accommodation provided for the above person.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor

representing the State of Kerala.

4. Relying on the decision rendered by a Single Judge of this Court in *Vijukumar v. State of Kerala* [2009(3) KLT 684], the learned counsel for the petitioner argued that the offence alleged against the petitioner is prima facie unsustainable since the Central Government has not specified any prescribed format as per the orders made under the Foreigners Act, 1946, to submit the information in respect of the foreigners accommodated in the premises maintained by a keeper.

5. At the outset, it has to be stated that the contention of the petitioner is apparently not maintainable, since the present prosecution has been launched not only for the failure of the petitioner to give information to the Police for the accommodation of a foreigner in the hotel managed by him, but also for his failure to maintain the necessary records at that hotel about the details of the foreign national lodged in the hotel. Sub-section 3 of Section 7 of the Foreigners Act, 1946, requires the keeper of every such premises where the foreigners are accommodated to maintain a record of the information in respect of the foreigners accommodated in such premises. The above requirement of law is alleged to have been violated by the petitioner.

6. The learned Public Prosecutor brought to my notice the gazette notification of the Central Government published on 24.09.2010 as GSR 780(L) under Section 3 of the Foreigners Act substituting 'Form C' in the Registration of Foreigners Rules, 1992, in a new format, with the heading 'ARRIVAL REPORT OF A FOREIGNER IN HOTEL'. Thus, it could be seen that, in exercise of the powers under Section 3 of the Foreigners Act, 1946, the Central Government has prescribed the requisite format for reporting the arrival of a foreigner in a hotel. The above gazette notification was obviously published after the decision rendered by the learned Single Judge in *Vijukumar* (supra). Therefore, the challenge raised by the petitioner in the present petition against the maintainability of the prosecution against him is prima facie unsustainable. The learned Magistrate has rightly declined the request of the petitioner to stop the proceedings under Section 258 Cr.PC .

In the result, the petition is hereby dismissed.