

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

Crl.MC.No. 837 of 2015 ()

PETITIONERS:

1. VIGIL, S/O.ABOOBACKER
THEKKEPURATH VEEDU, MARAD
KOZHIKODE.
2. ALI AKBAR @ BICHUMON
S/O.ALI, KUNNATHUPARAMBA VEEDU
MARAD, KOZHIKODE.
3. ABDUL NAZEER
S/O.POKKU, MAMANTAKATH VEEDU
MARAD, KOZHIKODE.
4. RAHIM, S/O.BICHIKOYA
KUNNATHUPARAMBA VEEDU
MARAD, KOZHIKODE.
5. SHARAFUDEEN, S/O.MAMMEDKOYA
SEEMAMUNTAKATH VEED, MARAD
KOZHIKODE.
6. K.P.ABDUL MAJEED @ MAJEED
S/O.YUSUF, KUNNATHPARAMBA VEEDU, MARAD
KOZHIKODE.
7. K.P.RAZAK, S/O.MUHAMMED
KUNNATHUPARAMBA VEEDU, MARAD
KOZHIKODE.
8. HAROON RASHEED @ AARU
S/O.MAJEED, KUTTUCHANTAKATH
VEEDU, MARAD, KOZHIKODE.
9. ASKAR, S/O.HAMZA, PALLITHODI VEEDU
JUMAYATH PALLIKKI ADUTH
MARAD, KOZHIKODE.
- 10.P.P.SALIM, S/O.BEERANKOYA
PUTHIYAPUAYIL VEEDU, MARAD
KOZHIKODE.
11. ASHIQUE, S/O.MAJEED
KUTTICHINTAKATH VEEDU, MARAD
KOZHIKODE.

12. SIRAJUDHEEN @ SIRAJ
S/O.ABDUL KHADER,
PAREECHINTAKATHU VEEDU, MARAD
KOZHIKODE.
13. TAHA, S/O.MIDEENKOYA
NAINAMVALAPPU VEEDU, MARAD
KOZHIKODE.
14. NISAR, S/O.MAMMALI, KINATTINGLAKATH
VEEDU, MARAD, KOZHIKODE.
15. THAJUDEEN, S/O.KOYATTY, SEEMAMUNTAKATH
VEEDU, MARAD, KOZHIKODE.
16. MUNEEER, S/O.ABDULLA, SEEMAMUNTAKATH
VEEDU, MARAD, KOZHIKODE.
17. SAKEER HUSSAIN, S/O.HAMZA
SEEMAMUNTAKATH VEEDU MARAD, KOZHIKODE.
- 18.RAFEEQUE, S/O.HAMZA, SEEMAMUNTAKATH VEEDU
MARAD, KOZHIKODE.
19. KAMARUDHEEN, S/O.HUSSAINKOYA
SEEMAMUNTAKATH VEEDU
MARAD, KOZHIKODE.
20. FAIZAL, S/O.ABOOBACKER
KINATTINGALAKATHU VEEDU, MARAD, KOZHIKODE
21. JAMSHEER, S/O.MUMUKOYA, PUTHENPEEDIYEKKAL VEEDU
KALLUVECHA VEETIL, MARAD, KOZHIKODE
22. JAFFAR, S/O.HAMZA, SEEMAMUNTAKATH
VEEDU, MARAD, KOZHIKODE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1. THE SUB INSPECTOR OF POLICE
MARAD-673001.
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.

R2 BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE A1. COPY OF THE ORDER PASSED BY THE HONOURABLE SUPREME COURT OF INDIA IN CRIMINAL MISCELLANEOUS PETITION NO.10357/14 AND 10358/14 IN Crl.A.Nos. 1119/2014 AND 1120/2014.

ANNEXURE A2. COPY OF THE ORDER DATED 24.11.14 PASSED BY SPECIAL ADDITIONAL JUDGE (MARAD CASES, KOZHIKODE) IN Crl.M.P. No.264/14 IN S.C. 555/2013.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.837 of 2015

Dated this the 27th day of February, 2015

O R D E R

The petitioners herein are some of the accused in S.C.No.555/2003 of the Special Court of Session (Marad cases), Kozhikode. On trial, the learned trial Judge found them not guilty, and accordingly, they were acquitted. Some of the accused were, however, convicted by the trial court. The convicted persons brought appeal before this Court against the conviction. The State also brought appeal against the acquittal of these petitioners. In appeal, this Court convicted these petitioners also. Against the said conviction they approached the Hon'ble Supreme Court. By an interim order, the Hon'ble Supreme Court directed the trial court to consider the application of the petitioners for bail, and also directed to impose appropriate conditions, in case bail is granted. Accordingly, they approached the trial court with an application. The learned trial Judge granted bail on certain conditions. One condition is that the petitioner shall not enter the Kozhikode Revenue District. The

petitioners are aggrieved by the said condition when there is no such condition in the case of the others who were initially convicted by the trial court. It is submitted that as regards them, the condition is that they shall not enter the limits of the Marad Police Station. The aggrieved petitioners approached the trial court with Crl.M.P.No.264/2014 to lift the said condition. Finding further possibility of communal clash at the locality, the learned trial Judge disallowed the request. The said order dismissing Crl.M.P.No.264/2014 is under challenge here, and this order is to be set aside.

2. On hearing both sides, I find that the petitioners in fact require only some modification in the condition imposed by the trial court. Though the prayer is to lift the condition, I find that a modification in the condition will satisfy them. In view of the fact that there is no such condition as regards the other accused, who were initially convicted by the trial court, I find that the condition can be modified accordingly, that these petitioners also shall not enter the limits of Marad Police Station. The alleged incident that led to the death of so many persons happened within the limits of

the Marad Police Station. If the petitioners and others are allowed to enter the Police Station limits, it will create law and order problems at the locality, including communal clash, as apprehended by the police. However, a condition as imposed by the court below is not felt necessary.

In the result, this petition is allowed in part. The condition imposed by the court below will stand modified to the effect that the petitioners shall not enter the limits of the Marad Police Station.

Sd/-

P. UBAID, JUDGE

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