

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Crl.L.P.No. 453 of 2014 ()

**AGAINST THE JUDGMENT IN CC 161/2009 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, THALASSERY DATED 08-07-2013**

PETITIONER/DEFACTO COMPLAINANT:

**AMBILAD MOHANAN AGED 51 YEARS
S/O.GOVINDAN , 'SHYAM NIVAS'
AMBILAD P.O., MANGATTIDAM, KUTHUPARAMBA
KANNUR DISTRICT**

**BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.MINI.V.A.**

RESPONDENTS/ACCUSED, LEGAL HEIRS OF 1ST ACCUSED & STATE:

- 1. K. V. ABOOBACKER @ VAYAPRATH ABUBACKER(DIED)**
- 2. K.AYISHA
W/O.ABOOBACKER, KALLARAKKAL HOUSE, NARAVOOR DESOM
KUTHUPARAMBA AMSOM, P.O. KUTHUPARAMBA, KANNUR DISTRICT.**
- 3. NAUSHAD, AGED 35 YEARS
S/O.ABOOBACKER, KALLARAKKAL HOUSE, NARAVOOR DESOM
KUTHUPARAMBA AMSOM, P.O. KUTHUPARAMBA, KANNUR DISTRICT**
- 4. NASEERA, AGED 34 YEARS
D/O.ABOOBACKER, KALLARAKKAL HOUSE, NARAVOOR DESOM
KUTHUPARAMBA AMSOM, P.O. KUTHUPARAMBA, KANNUR DISTRICT**
- 5. NISHAD, AGED 32 YEARS
S/O.ABOOBACKER, KALLARAKKAL HOUSE, NARAVOOR DESOM
KUTHUPARAMBA AMSOM, PO KUTHUPARAMBA, KANNUR DISTRICT**
- 6. IRSHAD, AGED 30 YEARS
S/O.ABOOBACKER, KALLARAKKAL HOUSE, NARAVOOR DESOM
KUTHUPARAMBA AMSOM, P.O. KUTHUPARAMBA, KANNUR DISTRICT**
- 7. NAFSEERA, AGED 28 YEARS
D/O.ABOOBACKER, KALLARAKKAL HOUSE, NARAVOOR DESOM
KUTHUPARAMBA AMSOM, P.O. KUTHUPARAMBA, KANNUR DISTRICT**
- 8. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**

R8 BY PUBLIC PROSECUTOR SMT. REMA R.

**THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON
09-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

K. ABRAHAM MATHEW, J.

Crl.L.P.No.453 of 2014

Dated this the 9th day of February, 2015

O R D E R

The second respondent was the second accused and her husband was the first accused in C.C.No.161/2009 on the file of the Judicial First Class Magistrate, Thalassery. They were alleged to have committed the offences under Sections 417 & 420 IPC. They were found not guilty and accordingly acquitted by the learned Magistrate. The petitioner who seeks leave to file appeal was the victim. He filed Criminal Appeal No.306/2013 before the Sessions Court, Thalassery. The learned Sessions Judge took the view that the appeal is not maintainable before the Sessions Court and hence ordered return of the appeal memorandum. Thereafter, the petitioner filed appeal before this court with the petition for leave to appeal which is being considered now.

2. The first accused, who is shown as the first respondent died before the filing of the leave petition. His

legal representatives have been shown as respondents 3 to 7. No appeal can be maintained against the legal representatives of an accused.

3. Now it is settled that under Section 372 Cr.P.C. the victim can file an appeal before the Sessions Court. So the learned Sessions Judge is directed to entertain the appeal provided it is otherwise maintainable.

In the result, this leave petition is dismissed.

Sd/-
K. ABRAHAM MATHEW
JUDGE

//True copy//

P.A. TO JUDGE

shg/