

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

Crl.MC.No. 2536 of 2015 ()

AGAINST THE ORDER IN CP 145/2014 of J.M.F.C., HARIPAD. &

AGAINST THE ORDER IN BAIL APPLN. NO. 3594/2014 of HIGH COURT OF KERALA,
DATED 28.05.2014 IN

CRIME NO. 387/2014 OF KAREELAKULANGARA POLICE STATION , ALAPPUZHA

PETITIONER(S)/PETITIONER/ACCUSED:

NITHIN DAS, AGED 30 YEARS,
S/O.THULASIDAS, KADAVATHU VEEDU, NEAR KETTUPURA
ANJUTHENGU.P.O, ATTINGAL, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE:

1. SUB INSPECTOR OF POLICE,
KAREELAKULANGARA POLICE STATION, ALAPPUZHA DISTRICT,
PIN-690 572.
2. CIRCLE INPSECTOR OF POLICE,
KAYAMKULAM, ALAPPUZHA DISTRIT, PIN-690 502.
3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SMT. MADHU BEN.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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Crl.MC.No. 2536 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I TRUE COPY OF THE FIRST INFORMATION REPORT IN CONNECTION WITH CRIME NO.387/2014 OF KAREELAKULANGARA POLICE STATION.

ANNEXURE-II TRUE COPY OF THE BAIL ORDER MADE IN B.A.3594/2014 VIDE ORDER DATED 28.05.2014 ISSUED BY THIS HON'BLE COURT.

ANNEXURE-III TRUE COPY OF THE FINAL REPORT FILED BY THE 2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, HARIPAD IN CONNECTION WITH CRIME NO.387/2014.

ANNEXURE-IV TRUE PHOTOGRAPH SHOWING THE POSITION OF THE BUS DRIVEN BY THE PETITIONER AT THE TIME OF ACCIDENT.

ANNEXURE-V TRUE COPY OF THE SCENE MAHAZAR PREPARED BY THE 1ST RESPONDENT IN CONNECTION WITH CRIME NO.387/2014 OF KAREELAKULANGARA POLICE STATION.

ANNEXURE-VI TRUE COPY OF THE VEHICLE MAHAZAR RELATING TO BUS NO.KA-51/9851 IN CONNECTION WITH CRIME NO.387/2014 OF KAREELAKULANGARA POLICE STATION.

ANNEXURE-VII TRUE COPY OF THE MAHAZAR RELATING TO THE BI-CYCLE, INVOLVED IN CONNECTION WITH CRIME NO.387/2014 OF KAREELAKULANGARA POLICE STATION.

RESPONDENT(S)' EXHIBITS

: **NIL**

//True Copy//

P.A. to Judge

K. RAMAKRISHNAN, J.

Criminal M.C.No.2536 of 2015

Dated this the 24th day of April, 2015

ORDER

This criminal miscellaneous case is filed by the petitioner to quash the proceedings in C.P.No.145/20104 on the file of the Judicial First Class Magistrate Court, Harippad, Alappuzha District.

2. It is alleged in the petition that, the petitioner has been arrayed as accused in Crime No.387/2014 of Kareelakulangara police station, alleging offence under Section 304 and 308 of the Indian Penal Code. According to the petitioner, on 03.04.2014 at about 12.30 p.m., while the petitioner was driving a Volvo Tourist bus from Bangalore to Thiruvananthapuram and when it reached Nangiarkulangara at about 12.30 p.m., it collided with a maruti 800 car, coming from the opposite direction and in order to avert the car, it hit against the bicycle, which was crossing the road and five adult persons

traveling in the car and a four year child were critically injured and five persons died. Originally case was registered under Section 279, 304 and 324 of the Indian Penal Code. He was arrested on 03.04.2014 and bail was granted later as per order in B.A.No.3594/2014. Final report was filed, in which he was charge-sheeted for the offence under Section 304 and 308 of the Indian Penal Code and on that basis, case was taken on file as C.P.No.145/2014 on the file of the Judicial First Class Magistrate Court, Harippad. According to the petitioner no offence under Section 304 or 308 of the Indian Penal Code have been committed. So he filed this application for quashing the proceedings.

3. Heard the counsel for the petitioner and Public Prosecutor appearing for the respondent.

4. According to the counsel, the case was originally registered for the offence under Section 279, 304 and 324 of the Indian Penal Code and later final report was

filed for the offence under Section 304 and 308 of the Indian Penal Code. According to the learned counsel, the allegations are not sufficient to attract the offence. It may be mentioned here that, on going through the allegations, this court felt that, it is not a fit case to invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings at this stage and the documents produced by the petitioner are all matters to be considered by the court below at the time of trial and those documents cannot be considered at this stage for quashing the proceedings. It is also settled law that, if a matter has to be decided on evidence, then, it is not proper for this court to invoke the power under Section 482 of the Code of Criminal Procedure and quash the proceedings at the initial stage itself. The petitioner can raise all his contentions before the trial court after the case is committed to the Sessions Court and if he files an application for discharge, then that court can consider those aspects and then pass appropriate

orders in that application in accordance with law.

With the above direction and observation, the petition is disposed of. Communicate this order to the concerned court immediately.

Sd/-

K. RAMAKRISHNAN, JUDGE

// True Copy//

P.A. to Judge

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