

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

Crl.MC.No. 5970 of 2015

**JUDGMENT DATED 15-10-2010 IN SC 319/2007 OF ADDITIONAL SESSIONS COURT
(ADHOC)-II, PATHANAMTHITTA
CRIME NO. 171/2004 OF PATHANAMTHITTA POLICE STATION, PATHANAMTITTA**
.....

PETITIONER(S):

**VARGHESE KOCHETH, S/O.JOHN,
KOCHETHU BUNGLOW, MAKKAMKUNNU P.O,
PATHANAMTHITTA.**

**BY ADVS.SRI.S.SREEKUMAR (SR.)
SRI.P.MARTIN JOSE
SRI.M.A.MOHAMMED SIRAJ
SRI.P.PRIJITH
SRI.THOMAS P.KURUVILLA**

RESPONDENT(S):

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.LILLY LESSLEY

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
28-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 5970 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNX.A - TRUE COPY OF FIR IN CRIME NO.171/2004 OF PATHANAMTHITTA POLICE STATION.

ANNX.B - CERTIFIED COPY OF FINAL REPORT IN CRIME NO.171/2004 OF PATHANAMTHITTA POLICE STATION.

ANNX.C - TRUE COPY OF JUDGMENT IN SC NO.319/07 DATED 15.10.2010

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

[CR]

B. KEMAL PASHA, J.

.....
Crl.M.C No.5970 of 2015

.....
Dated this the 28th day of September, 2015

J U D G M E N T

The petitioner is the 5th accused in Crime No.171/2004 of the Pathanamthitta Police Station registered for the offence punishable under Section 394 of the Indian Penal Code. On investigation, a final report was filed for the offences punishable under Sections 120B, 307 and 394 IPC. It seems that the role of the petitioner is only limited to the offence punishable under Section 120B IPC, read with other offences.

2. A1, A4 and the petitioner were absconding. The trial against A2 and A3 alone was proceeded with as

S.C.No.319/2007 and the same has ended in an acquittal through Annexure-C judgment passed by the Additional Sessions Court-II Pathanamthitta. The case against the petitioner is presently pending as S.C.No.703/2012.

3. The learned Senior Counsel for the petitioner has pointed out that no purpose would be served in proceeding with the trial in S.C.No.703/12 and in fact the personal appearance of the petitioner itself is not required. It seems that the court below has chosen to frame charges in the case. In such a case, the personal appearance of the petitioner to answer the charge is required and the same cannot be dispensed with. On going through the facts and circumstances of the case, and considering the seriousness of the allegations against the petitioner, this Court is of the view that the petitioner cannot be permitted to evade the trial based on the judgment passed by the court below in S.C.No.319/2007; whereas he has to face the trial in the matter.

4. The learned Senior Counsel has pointed out that the petitioner is working in Germany and three week's time is required for him to reach the station from Germany. Hence, the request to adjourn the trial to any day after three weeks, is only to be granted.

In the result, this Crl.M.C is dismissed. At the same time, the court below is directed to adjourn the trial to any day, after three weeks, for enabling the petitioner to participate in the trial.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge