

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

CRL.REF.No. 8 of 2012 (C)

SC 61/2010 OF SESSIONS COURT, KOLLAM

CP 80/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PARAVOOR
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SUO MOTU

AGAINST

1. SANTHOSH @ VAVA SANTHOSH,
S/O.MURALEEDHARAN,
KUNNUMPURATHU VEEDU,
PERUMPUZHA, KURUMANDAL CHERRY,
PARAVUR VILLAGE.
2. RAJAN, S/O.SANKARAN,
RESIDING AT MALAKAYAL COLONY HOUSE,
KURUMANDAL CHERRY, PARAVUR.
3. RATHEESH, S/O.RAJAN,
RESIDING AT MALAKAYAL COLONY HOUSE,
KURUMANDAL CHERRY, PARAVUR.
4. RAJESH, S/O.RAJAN,
RESIDING AT MALAKAYAL COLONY HOUSE,
KURUMANDAL CHERRY, PARAVUR.
5. SAJEEV @ POCHA SAJEEV,
S/O.SAHADDEVAN, PUNNAVILA VEEDU,
PERUMPUZHA, KURUMANDAL CHERRY,
PARAVUR VILLAGE.
6. R.SURESH @ A.K.KUTTY,
S/O.RAJU, MALAKAYAL COLONY,
PERUMPUZHA, PARAVUR VILLAGE.
7. AJAYA KUMAR, S/O.KUNJUKUNJU,
VALIYATHURUTHIL, MUNDAKATHURA HOUSE,
PARAVUR P.O., KOLLAM.
8. STATE OF KERALA.

R2 BY ADVS. SRI.SHABU SREEDHARAN
SRI.K.M.ABDUL MAJEED
SRI.UDAYAKUMAR SREEDHARAN
SRI.B.BALA PRASANNAN
SMT.RESHMA ABDUL RASHEED

R BY SRI.TOM JOSE PADINJAREKKARA,ADDL.D.G.P
R8 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL REFERENCE HAVING BEEN FINALLY HEARD ON 06-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.UBAID, J.

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Crl.Ref.No.8 of 2012
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Dated this the 6th day of October, 2015

ORDER

Heard.

This Court has already passed orders in this proceeding on 20.11.2014 as regards to the committal order passed by the learned Judicial First Class Magistrate Court -II, Kollam in C.P.No.18 of 2010, and the learned Judicial First Class Magistrate Court, Paravur in C.P.No.80 of 2009. Later, when the learned counsel for the petitioners pointed out some mistakes, an interim order was passed by the Court, directing the Court below not to act in terms of the directions as regards S.C.No.61 of 2010. On a perusal of the records as regards S.C.No.61 of 2010, I find that the whole committal order need not be quashed. There are altogether seven accused in the crime. The police submitted final report in Court as against the accused Nos.1 to 6, and a separate final report was submitted before the

Juvenile Justice Board as against the 7th accused. It is submitted that the said case is now pending as S.T.No.2 of 2015 before the Juvenile Justice Board. Without noticing the fact that there is already a separate final report as against the 7th accused, who is a Juvenile, the learned Magistrate committed the whole case as against seven accused by order in C.P.No.80 of 2009. In such a situation, I find the necessity of a slight modification in the order passed on 20.11.2014 as regards the committal order in C.P.No.80 of 2009 of the Judicial First Class Magistrate Court, Paravur. Orders partly quashing the committal order as regards the 7th accused will suffice. Hence, the following final orders are passed in continuation of the order passed by this Court on 20.11.2014 in Crl.Ref.No. 8 of 2012;

a. The committal order passed by the learned Judicial First Class Magistrate Court-II, Kollam in C.P.No.18 of 2010 will stand quashed, and the directions made by the Court in the earlier order will have to be complied with.

b. The committal order passed by the Judicial First Class Magistrate Court, Paravur in C.P.No.80 of 2009 will stand partly quashed as regards the 7th accused who is a Juvenile. The said committal order will have force and effect only as regards accused Nos.1 to 6 who alone can be tried in the Court of

Session. Accordingly, it is clarified that the files in S.C.No.61 of 2010 need not be sent back, because, the case against the 7th accused is even otherwise proceeding before the Juvenile Justice Board. The trial court can proceed with S.C.No.61 of 2010 from the stage at which it was stayed by this Court, and the same can be disposed of according to law.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE