

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 3310 of 2009 ()

AGAINST THE ORDER IN CrI.MP 1790/2008 of ADDL.C.J.M., ERNAKULAM

REVISION PETITIONER(S)/COMPLAINANT:

JOSEPH, S/O.CHACKO,
PALACKAPPILLY HOUSE, PETER ASAN LANE, KONTHURUTHY
THEVARA, ERNAKULAM.

BY ADV. SRI.MANU ROY

RESPONDENT(S)/ACCUSED:

-
1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.
 2. NIJAF, AGE AND FATHERS NAME NOT KNOWN,
POLICE CONSTABLE, ERNAKULAM TOWN SOUTH POLICE
STATION.
 3. BHASKARAN, AGE AND FATHERS NAME NOT
KNOWN, HEAD CONSTABLE, ERNAKULAM TOWN SOUTH
POLICE STATION.
 4. DINESAN, AGE AND FATHERS NAME NOT KNOWN,
POLICE CONSTABLE, ERNAKULAM TOWN SOUTH POLICE
STATION.
 5. POULOSE, AGE AND FATHERS NAME NOT KNOWN,
POLICE CONSTABLE, ERNAKULAM TOWN SOUTH POLICE
STATION.
 6. BIJOY, AGE AND FATHERS NAME NOT KNOWN,
POLICE CONSTABLE, ERNAKULAM TOWN SOUTH POLICE
STATION.

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
01-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.3310 of 2009

Dated this the 1st day of December 2015

O R D E R

The revision petitioner is the complainant in Crl.M.P. No.1790 of 2008 on the files of the court of the Additional Chief Judicial Magistrate, Ernakulam. The court below dismissed the complaint on 18.8.2009 due to the absence of the complainant on that day. Aggrieved by the said order, this revision petition has been filed.

2. Heard.

3. It appears from the records that the complainant and two witnesses were examined before the court below. Thereafter, the case was adjourned for further evidence.

Thereafter, the court below on 18.8.2009, dismissed the complaint as there was no representation for the complainant. It has been submitted by the learned counsel for the revision petitioner that the revision petitioner or his counsel could not reach the court on 18.8.2009, as there was inadvertent omission on the part of the learned counsel in noting down the posting date of the case and in the said circumstances, the learned counsel has pleaded for granting one more opportunity to the revision petitioner to contest the matter on merits. Having gone through the proceedings of the court below in the light of the arguments of the learned counsel for the revision petitioner, I am of the view that one more opportunity can be granted to the revision petitioner to adduce further evidence in the Inquiry under Section 202 of the

Code. For the said reason, the order impugned cannot be sustained.

In the result, this revision petition stands allowed, setting aside the order impugned and the matter is remitted to the court below for fresh consideration of the complaint in accordance with law, affording reasonable opportunity to the revision petitioner to substantiate his contentions. The proceedings of the court below shall stand relegated to the stage prior to the dismissal of the complaint on 18.8.2009. The revision petitioner shall appear before the court below on 22.12.2015.

I make it clear that the revision petitioner shall not seek for any adjournment till the completion of 202 enquiry.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/30.11.2015

// True Copy //

PA to Judge