

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

Crl.Rev.Pet.No. 612 of 2015

**CRIME NO. 295/2009 OF PANANGAD POLICE STATION , ERNAKULAM
CRL.MP.2148/2014 IN SC.NO.112/2014OF 6TH ADDITIONAL DISTRICT AND SESSIONS
COURT, ERNAKULAM**

REVISION PETITIONER(S)/5TH ACCUSED:

**THAMPI P.S., AGED 46 YEARS,
S/O.SREEDHARAN, RESIDING ATPUTHUVALSALATH VEEDU,
KUNDANOOR, MARADU, PINCODE: 682 040
ERNAKULAM DISTRICT.**

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, COCHIN 682 031.**

BY PUBLIC PROSECUTOR SMT.MADHU BEN

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
22-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.Rev.Pet.No. 612 of 2015

APPENDIX

PETITIONERS' ANNEXURES

**ANNEXURE A1:TRUE COPY OF CHARGE SHEET DATED 1/8/11, 161 STATEMENT AND
OTHER RELEVANT RECORDS OF SC NO.112/2014.**

RESPONDENTS' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.HARILAL, J.

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Crl.R.P.No.612 of 2015

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Dated this the 22nd day of May, 2015

ORDER

The revision petitioner herein is the 5th accused in Sessions Case No.112/2014 on the files of the VIth Additional District and Sessions Judge, Ernakulam. He is charge sheeted under Section 4 of the Explosive Substances Act, 1908. The petitioner filed a petition under Section 227 of the Cr.P.C seeking discharge from the prosecution. The petitioner contended that he has been arraigned as an accused in the above case solely due to extraneous consideration and he has no manner of involvement with the alleged prosecution case. According to him, there is no evidence to connect or implicate him with the alleged offence. Solely for taking vengeance against him, he has been falsely implicated with an intention to spoil his future. No overt acts have been alleged against the petitioner.

None of the witnesses cited by the prosecution had spoken about the petitioner. So also, there is no circumstantial evidence placed by the prosecution to array the petitioner as an accused. In short, the charge against the petitioner is groundless.

2. The learned counsel for the revision petitioner drew my attention to the impugned order under challenge and submits that the court below miserably failed to discharge the jurisdiction and power vested in it under law. According to him, the impugned order is liable to be set aside at the threshold.

3. Going by the impugned order, as rightly submitted by the learned counsel for the revision petitioner, apparently, I find that the court below has miserably failed to discharge the jurisdiction and power vested in it under Section 227 of the Cr.P.C by passing the impugned non-speaking order. Section 227 of the Cr.P.C reads as follows :

“If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing”.

In view of the statutory mandate, it was incumbent upon the learned judge to consider the records of the case and the documents submitted therewith. But in the instant case, it is seen that no attempt had been made to consider the question whether the charge is groundless or not.

4. The order framing charge has many evil consequences. It substantially affects personal liberty. So, it is the duty of the Court to consider judicially whether the materials in the records of the case and the documents submitted therewith warrant framing of charge. The Court is required to sift and weigh evidence for the limited purpose of finding out whether a prima facie case has been made out against the accused. It is also to be borne in mind that reasoning is the soul of a judicial order and an order

without reasoning is not a judicial order in the eye of law.

5. In the above view of the matter, the impugned order is not justifiable and is liable to be set aside at the threshold and I do so. The matter is remitted back to the trial court to consider afresh the records of the case and documents submitted therewith and pass orders afresh within a period of two months from the date of receipt of a copy of this order.

The revision petition is allowed.

Sd/-
K.HARILAL,
JUDGE.

stu

//True copy//

P.A to Judge