

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

Crl.Rev.Pet.No. 759 of 2015

CRIME NO. 714/2013 OF MAYYIL POLICE STATION, KANNUR

REVISION PETITIONER(S)/15TH ACCUSED:

SHINOJ V.C., AGED 26 YEARS,
S/O. C.V GOPALAN, AMRITA NIVAS,
CHERUPAZHASSI P.O.,
OLACHERI, KANNUR DISTRICT-PIN 670 601.

BY ADV. SRI.I.V.PRAMOD

RESPONDENT/RESPONDENT/COMPLAINANT (STATE):

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY PUBLIC PROSECUTOR SRI. JUSTINE JACOB

THIS CRIMINAL REVISION PETITION HAVING COME UP
FOR ADMISSION ON 08-07-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No. 759 of 2015

Dated this the 8th day of July, 2015

ORDER

The revision petitioner is the petitioner in C.M.P. No.539 of 2015 in C.C. No.1097 of 2014 on the files of the Judicial First Class Magistrate's Court-II, Kannur. He is the 15th accused in the above Calender Case arose from a crime registered for the offences punishable under Secs.143 147, 148, 283, 506(ii) read with Sec.149 of the Indian Penal Code. The above application was filed under Sec.239 of the Code of Criminal Procedure claiming discharge on the ground that the charge against him is groundless. After considering the prosecution records and the documents sent along with the report, under Section

173(2) of the Cr.P.C., the court below dismissed the above application by the impugned order. The legality and propriety of the findings, whereby the court below dismissed the said application is under challenge in this revision petition.

2. Heard the learned counsel for the revision petitioner.

3. The learned counsel for the petitioner advanced arguments assailing the findings, whereby the court below dismissed the said application. The sum and substance of the arguments advanced by the learned counsel for the petitioner is that absolutely there are no materials in the prosecution against the petitioner to frame charge against him. None of the witnesses had identified him as an accused who participated in the alleged commission of the offence. In the absence of the incriminating materials, either oral or documentary, he cannot be prosecuted under the said charge.

4. Per contra, the learned Public Prosecutor

advanced arguments to justify the impugned order under challenge. According to him, around 250 persons are involved in the commission of the offence and the petitioner is one among those persons who can be identified at sight. But the learned Public Prosecutor also admitted that nowhere in the prosecution documents his name is mentioned or his involvement is specifically alleged or stated.

5. The short question that arises for consideration is, whether the charge against the petitioner is groundless? The allegation is that the accused persons and other around 250 persons formed into an unlawful assembly on 23/10/2013 at Mayyil, conducted a march along the public way, without any permission caused obstruction to the passengers and the vehicles and threatened the complainant, who was the Sub Inspector of Police, uttering slogans that his leg and hand would be cut. It is true that the First Information Report was registered on the basis of an information that around 250 persons, who can be

identified at sight, formed into an unlawful assembly and conducted a march along the public way, caused obstruction to the passengers and the vehicles and threatened the complainant, the Sub Inspector of Police. But after investigation, no evidence has been brought out identify the petitioner as one of the accused involved in the offence and none of the witnesses acquainted with the facts and circumstances of the case have spoken to the involvement of the petitioner in the commission of the offence. Nowhere in the prosecution documents his name is mentioned as an accused involved in the commission of the offence. In short, as rightly submitted by the learned counsel for the petitioner, absolutely no incriminating materials have been brought out in the prosecution documents attached along with the charge. It follows that the charge against the petitioner is groundless.

6. In the above view, I find that the petitioner is entitled to get discharge. The impugned order dated

12/5/2015 in C.M.P.No.539 of 2015 will stand set aside and the petitioner will stand discharged from the prosecution in Crime No.714 of 2013 of Mayyil Police Station.

This revision petition is accordingly allowed.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge