

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

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

Crl.Rev.Pet.No. 1196 of 2015 ()

AGAINST THE ORDER IN CP 13/2014 (CC 1/2013) of J.M.F.C., TIRUR DATED
18-02-2014

REVISION PETITIONERS/ACCUSED:

1. AYYAPPAN
S/O. UNNIYALAN, ERALAMKALAYIL HOUSE, PUTHUPALLI AMSOM
THRITHALLOOR, PURATHOOR, TIRUR TALUK
MALAPPURAM DISTRICT.
2. KUNHAKKAN
S/O. UNNIYALAN, ERALAMKALAYIL HOUSE, PUTHUPALLI AMSOM
THRITHALLOOR, PURATHOOR, TIRUR TALUK
MALAPPURAM DISTRICT.
3. VELAYUDHAN
S/O. KOMAN CHETTIYARUMURIYIL HOUSE, PUTHUPALLI AMSOM
THRITHALLOOR, PURATHOOR, TIRUR TALUK
MALAPPURAM DISTRICT.
4. MEPPADATH PRASANNA,
W/O. VELAYUDHAN, CHETTIYARUMURIYIL HOUSE
PUTHUPALLI AMSOM, THRITHALLOOR, PURATHOOR
TIRUR TALUK, MALAPPURAM DISTRICT.
5. JAYAN
S/O. KUNHAKKAN, ERALAMKALAYIL HOUSE, PUTHUPALLI AMSOM
THRITHALLOOR, PURATHOOR, TIRUR TALUK
MALAPPURAM DISTRICT.

BY ADVS.SRI.P.CHANDRASEKHAR
SRI.S.PRASANTH
SRI.SOORAJ T.ELENJICKAL
SMT.UMA
SRI.K.NANDAKUMAR
SMT.V.A.HARITHA
SMT.P.M.MAZNA MANSOOR

RESPONDENTS/RESPONDENTS/STATE & COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. PADMANABHAN,
S/O. THAMI, PACHETHU HOUSE, PUTHUPALLI

P.O. PURATHOOR, TIRUR TALUK, MALAPPURAM DISTRICT.

R2 BY ADV. SRI.K.RAKESH

R BY PUBLIC PROSECUTOR SRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 28-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No. 1196 of 2015

Dated this the 28th day of September, 2015

ORDER

The revision petitioners are the accused in CP 13/2014 (arising out of CC 1/2013) on the files of the Court of the Judicial Magistrate of First Class-I, Tirur.

2. The 2nd respondent herein filed a petition before the court below, informing the court about the pendency of the connected case namely, SC 27/2012, before the Sessions court, Manjeri and requesting the court to commit CC 1/2013 on the files of that court to the Sessions court. The revision petitioners filed objection to that petition. After considering the relevant inputs, the court below committed the case to the Sessions court, Manjeri as per order in CP 13/2014. Aggrieved by the said order, this revision petition has been filed.

3. Heard the learned counsel for the revision petitioners and the learned counsel for the 2nd

respondent. I have also heard the learned Public Prosecutor.

4. It is born out from the order impugned that SC 27/2012 on the files of the court of Sessions, Manjeri was connected with CC 1/2013 on the files of the court below. The place of incident, the time of incident and the parties in both the said cases were the same. However, one case was a case triable by the Special Sessions Court and hence the same was already committed to the Sessions Court in the usual course. During the course of trial of CC 1/2013, it was informed to the court through the above petition that the said case was a case connected with SC 27/2012. In the said circumstances, the learned Magistrate committed the said case to the Sessions court Manjeri under Section 323 Cr.PC.

5. It has been submitted by both sides that SC 27/2012 is a counter case of CC 1/2013. When there is a case and a counter case, both have to be tried one after another and the judgments have to be pronounced on the same day. Since CC 1/2013 is the Counter case of SC 27/2012, the learned Magistrate was perfectly correct in initiating committal

proceedings as CP 13/2014 and committing the case to the Sessions court, Manjeri under Section 323 Cr.PC.

6. The learned counsel for the revision petitioners has submitted that SC 27/2012 is triable by the Special Court for the trial of cases relating to SC/ST Prevention of Atrocities Act and hence that court is not having the jurisdiction to conduct the trial of CC 1/2013. Even though the said court is a Special Court, the said court is also a Sessions court. In the said circumstances, the argument advanced by the learned counsel for the revision petitioners in this regard cannot be accepted. No circumstance has been brought to my notice by the learned counsel for the revision petitioners to hold that the order impugned is not legal, proper and correct. Having gone through the relevant inputs, I do not find anything to hold that the order impugned is not legal, proper and correct. In the said circumstances, I find no reason to interfere with the order impugned.

7. In the result, this revision petition stands dismissed.

The learned counsel for the revision petitioners has

submitted that the revision petitioners are coming from distant places and in the said circumstances, they may be exempted from personal appearance before the trial court. That is a matter to be considered by the trial court and not by this Court in this proceedings. However, the petitioners shall be at liberty to apply for exemption from personal appearance before the trial court and in the event of filing any such application, the trial court shall consider and dispose of the said application in accordance with law.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

sm/