

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

Crl.Rev.Pet.No. 1356 of 2015 ()

CC 45/2012 of J.M.F.C.,ADIMALY
CRIME NO.116/07 OF VELLATHOOVAL POLICE STATION

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REVISION PETITIONER(S)/ACCUSED NO.1:

A.SUNIL KUMAR, AGED 50 YEARS,
S/O. VELUKUTTY, PERMANENT RESIDENT OF PRAVEENA COTTAGE,
METTUKADA, THYCAUD, THIRUVANANTHAPURAM - 695 014.

BY ADVS.SRI.C.S.MANU
SRI.S.K.PREMRAJ

RESPONDENT(S)/COMPLAINANT:

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

2. DETECTIVE INSPECTOR,
SPECIAL INVESTIGATION, CB-CID, KOTTAYAM,
(NOTICE TO WHOM MAY BE SERVED ON THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.)

R1 BY PUBLIC PROSECUTOR SRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 21-10-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

OKB

K.HARILAL, J.

Crl.R.P. No.1356 of 2015

Dated this the 21st day of October, 2015.

O R D E R

The petitioner is the first accused in C.C.No.45/12 on the files of the Judicial First Class Magistrate's Court, Adimaly. The police filed a Final Report alleging offences punishable under Sections 120B, 210, 420, 465, 468 and 471 of the IPC read with Section 34 of the IPC. The learned Magistrate, after considering the Final Report filed by the police, framed charge for the offences punishable under Sections 465, 420, 468, 471 and 120B read with Section 34 of the PC and issued summons to C.W.1 by the impugned order. The legality and correctness of the said order whereby the trial court framed charge are under challenge in this revision petition.

2. Heard the learned counsel for the revision petitioner and the learned Public Prosecutor.

3. The learned counsel for the petitioner advanced arguments in extenso contending that the charges against the petitioner and others are groundless. The learned counsel further submits that before the framing of charge the petitioner has filed Crl.M.C.No.5151/15 before this Court under Section 482 of the Cr.P.C. to quash the Final Report filed against him and during the pendency of the said Crl.M.C. the learned Magistrate framed the impugned charges on 9.9.2015 without giving an opportunity of being heard to the petitioner. In the light of the framing of charge on 28.9.2012 the petitioner sought for permission to withdraw the Crl.M.C. and the same was allowed without prejudice to the right of the petitioner to challenge the charge. Hence this revision petition is filed challenging the charges framed against the petitioner.

4. Going by the impugned order, it is seen that the order framing charge is not a reasoned order. The learned counsel for the petitioner himself admitted that no petition was filed under Section 239 of the Cr.P.C. seeking discharge. If that be so, I do not find

fault with the learned Magistrate in framing charge without recording the reasons. However, having regard to the interest of justice, I find that an opportunity can be given to the petitioner to raise all the contentions against the Final Report filed by the police, in the light of the specific contention raised before this Court that the charge against the accused is groundless. But, I do not propose to make any observation on the merits of the arguments raised before me. In the above view of the matter, the impugned charge framed on 9.9.2015 against the petitioner will stand set aside and the matter is remitted back to the trial court enabling the petitioner to file a petition for discharge under Section 239 of the Cr.P.C.

5. The petitioner is directed to file the petition seeking discharge within one month from the date of delivery of this order and the learned Magistrate, on consideration of such a petition filed by the petitioner within the aforesaid time, shall provide an opportunity of being heard to the petitioner and pass

an order afresh within a period of two months from the date of filing of the petition seeking discharge.

This criminal revision petition is disposed of accordingly.

Sd/—
K. HARILAL, JUDGE

okb.