

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

Tr.P(Cr1.).No. 16 of 2015

IN SC 315/2013 OF ADDITIONAL SESSIONS COURT, PALA

PETITIONER/ACCUSED:

THOMAS SEBASTIAN,
S/O.DEVASIA, ARAYATHINAL HOUSE,
PTHAMPUZHA P.O.
POONJAR THEKKEKARA VILLAGE,
KOTTAYAM DISTRICT.

BY ADV. SRI.THOMAS SEBASTIAN (PARTY-IN-PERSON)

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
ERATTUPETTA
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA - 682 031.

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 19-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Tr.P(Crl.).No. 16 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE ORDER IN CRL.M.P NO.75/2015 SESSIONS COURT, KOTTAYAM.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Tr.P (Crl) No.16 of 2015

Dated this the 19th day of March, 2015

O R D E R

The petitioner herein is the accused in S.C No.315/2013 of the Additional Sessions Court, Pala. An application filed by him for discharge under Section 227 of the Code of Criminal Procedure was dismissed by the learned trial judge. It is not known whether he has challenged the said order by appropriate proceeding before this Court. Anyway, the trial proceeded, and the trial court examined the material witnesses. At that juncture the petitioner brought this Transfer Petition on the ground that discharge was wrongly disallowed by the trial court.

2. On hearing the petitioner and the learned Public Prosecutor, I find that the petitioner does not have any legal ground to have the case transferred. That the trial court disallowed the request for discharge is not a ground to transfer the case. If such a ground is accepted by this Court, very many cases will have to be transferred from different courts. When discharge is disallowed the accused will have remedy under the

law. He will have to seek the said remedy available under the Code of Criminal Procedure. If such remedy is exhausted, and he fails in that process also, he will have to face trial. Now there is a report by the learned trial judge that the prosecution evidence is over, and the case now stands posted for defence evidence. Anyway, I am not inclined to allow the request because transfer cannot be granted on the ground that the trial court disallowed the request for discharge.

3. The petitioner now submits that he has made a request for disposal under Section 232 of the Code of Criminal Procedure. The report of the learned trial judge shows that the case now stands posted for defence evidence. This means that the learned trial judge found that this is not a case to be disposed of under Section 232 of the Code of Criminal Procedure. Anyway, it will be considered by the learned trial judge.

In the result, this Transfer Petition is dismissed in limine without being admitted to files.

**P.UBAID
JUDGE**

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