

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

Tr.P(Crl.).No. 42 of 2015 ()

IN CRA 110/2011 of II ADDL.D.C., THIRUVANANTHAPURAM

PETITIONER(S)/PETITIONER:

**M.PADMANABHAN
VEERALAKSHMANA STORES, BUS STAND JUNCTION
NEYYATTINKARA.**

BY ADV. SRI.R.GOPAN

RESPONDENT(S)/RESPONDENTS/RESPONDENTS:

**1. K.LATHA KUMARI
TC. 36/1281, FLAT NO. 42 VALLEY, SUBHASH NAGAR
VALLAKADAVIL P.O., THIRUVANANTHAPURAM-695001.**

**2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**R1 BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
R1 BY ADV. SRI.JELSON J.EDAMPADAM
R2 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON
07-04-2015, ALONG WITH TR.P (CRL.)NO.43 OF 2015 AND TR.P (CRL.) NO.44 OF 2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS ANNEXURES:

- A: PHOTOCOPY OF THE JUDGMENT DATED 26.11.2014 IN CRL.R.P NO. 1572/2012
PASSED BY THIS HON'BLE COURT**
- B: PHOTOCOPY OF THE REPRESENTATION DATED 23.3.2015 SUBMITTED BY
THE PETITIONERS COUNSEL BEFORE THE SESSIONS JUDGE,
THIRUVANANTHAPURAM**
- C: PHOTOCOPY OF THE AFFIDAVIT FILED BY THE PETITIONER'S COUNSEL
BEFORE THE SESSIONS JUDGE, THIRUVANANTHAPURAM DATED 23.3.2015**

RESPONDENTS ANNEXURES: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Tr.P (Crl.) No.42 of 2015
Tr.P (Crl.) No.43 of 2015 &
Tr.P (Crl.) No.44 of 2015

Dated this the 7th day of April, 2015.

O R D E R

The petitioner in Tr.P. (Crl.) No.42 of 2015 and Tr.P. (Crl.) No.44 of 2015 is the same. He is the respondent in two appeals now pending before the Second Additional Sessions Court-II, Thiruvananthapuram. Those are Crl. Appeal No.109 of 2011 and Crl. Appeal No.110 of 2011. The petitioner in Tr.P (Crl.) No.43 of 2015 is the respondent in Crl. Appeal No.108 of 2011 before the same court. The petitioners seek transfer of the said appeals to some other court in the same Sessions division on the ground that when the learned counsel appearing for the respondents made a request before the learned judge to adjourn the matter, the learned appellate judge abused the learned counsel. The reason for transfer stated in the writ petition is contained in paragraph 4 of the petition, as follows:

“ At that time the Additional Sessions Judge got angered and said some unfortunate dialogs to Advocate V.N Gopalakrishnan personally hurting him”

2. In view of the allegations made in the transfer application, I required the learned Appellate Judge to submit his remarks. Accordingly, the learned Appellate Judge submitted remarks dated 6.4.2015 containing everything that transpired during the hearing process before him. The learned Appellate Judge has reported that repeated adjournments were in fact given on the request of the learned counsel, and finally the learned Judge posted the appeals for hearing on 18.3.2015. On that day the learned counsel appearing for these petitioners came to his chamber, and made a request for further adjournment. The learned Judge told him that it was not fair and proper to come to the chamber and make a request for adjournment. The learned counsel obliged, and accordingly, the request was made in open court to adjourn the appeals. The learned Appellate Judge affirms in the remarks that he had not used any word or sentence insulting or abusing the learned counsel.

3. I find that the explanation submitted by the learned Appellate Judge is acceptable. The ground stated by the petitioners for transfer is really unacceptable. The only ground is that the learned Appellate Judge used some offensive words to the learned counsel. It is not known what those words are, or how the learned counsel was offended or abused or humiliated by the learned

Appellate Judge. The petitioners do not explain in the petition how exactly was the counsel abused or humiliated, or what offensive or humiliating words were used by the learned judge. In such a situation, the remarks submitted by the learned judge explaining the thing that transpired in the court will have to be accepted by this court. Of course, at the end of the remarks, the learned Judge has stated that he has some delicacy to hear the appeals in the present situation. If the appeals are transferred by this court, accepting the allegations made by the petitioners, or just because the learned trial judge has expressed some delicacy, it will set an unhealthy trend and unpleasant situations in the administration of justice. However, I make it clear that this order will not stand in the way of the appeals being withdrawn by the learned Sessions Judge, if a request to that effect is made by the learned Appellate Judge now hearing the appeals.

In the result, the three transfer petitions are dismissed.

Sd/-

P.UBAID,
JUDGE