

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

Tr.P(Crl.).No. 70 of 2015 ()

**(FOR TRANSFERRING SC.NO. 613/2012 OF ADDITIONAL SESSIONS COURT - II,
NORTH PARAVUR TO THE ADDITIONAL SESSION COURT-I, N.PARAVUR)**

PETITIONER(S)/ACCUSED 1 TO 4:

- 1. RADHAKRISHNAN, S/O.GOPALAKRISHNAN,AGED 29 YEARS,
KOONAMPARAMBIL HOUSE, MAPPALA ROAD,
MANJUMMEL, 23/8/1C, ELOOR,
NOW RESIDING AT H.NO.XVII/512, YASORAM NAGAR,
CHERANELLOOR.**
- 2. DORY, S/O.EARNEST, AGED 26 YEARS,
KONULLY HOUSE, MANJUMMEL, ELOOR.**
- 3. SYAMKUMAR @ UNNI,S/O.AJAYAKUMAR, AGED 20 YEARS,
MUDAKKARAPPILLY, MULLAPPARAMBIL HOUSE,
MADAPPATTU ROAD, MANJUMMEL, ELOOR.**
- 4. RONY, S/O.PIUS, AGED 23 YEARS,
PUTHENVEEDU, MADAPPATTU ROAD, MANJUMMEL,
ELOOR.**

BY ADV. SRI.S.NIRMAL KUMAR

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
(CRIME NO.624/2011 OF ELOOR POLICE STATION)**

BY PUBLIC PROSECUTOR SRI.GITHESH.R

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

ALEXANDER THOMAS, J.

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Tr.P.(Crl.)No.70 of 2015

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Dated this the 7th day of August, 2015

ORDER

The prayer in this Transfer Petition (Crl.) is as follows:

“.....to give a direction transfer the case numbered as SC No.613/2012 from the court of the Addl.Sessions Judge II, N.Paravur to the Additional Session Judge-I, N.Paravur and direct him to dispose off the case according to law.”

2. In compliance to the order of this Court on 03/08/2015, the Principal Sessions Judge, Ernakulam has furnished report dated 06/08/2015 to the Registry of this Court wherein it is stated that on ascertaining the factual details, it is seen that SC No.613/2012 is on the file of Additional Sessions Judge II, North Paravur and the said learned Judge had taken evidence in that case and he has questioned the accused under Section 313 of Cr.P.C. Thereafter he was posted as Additional Sessions Judge I, North Paravur and another Judicial Officer is posted as Additional Sessions Judge II, N.Paravur. That SC No.613/2012 is now posted on 12/08/2015 for defence evidence. Since the entire evidence has taken as well as

questioning under Section 313 was done by the previous incumbent who held the office as Additional Sessions Judge II, who is now posted as Additional Sessions Judge I, it is only just and proper that the said Sessions Case is also disposed of by the same Judicial Officer who had taken the evidence and recorded the statement of the accused under Section 313 of the Cr.P.C. Further it is brought to notice that Circular No.6/70(B1-42991/69 dated 10.3.1970) issued by this Court directs that when the Presiding Officer of a court is posted to another Bench of the same court he shall take with him to the latter Bench all cases in which evidence has been closed and also the cases where the oral evidence of the rebutting party has commenced.

3. Heard Sri.S.Nirmal Kumar learned counsel for the petitioner and the learned Public Prosecutor appearing the respondent State of Kerala.

4. After hearing both sides and on consideration of the totality of the facts and circumstances of the case and on perusal of the aforestated report dated 06/08/2015 submitted by the Principal Sessions Judge, Ernakulam, this Court is of the considered opinion that the prayer of the petitioner is only to be allowed as rightly

pointed out in the aforestated report. Accordingly it is ordered in the interest of justice that the SC No.613/2012 shall stand transferred from the court of the Additional Sessions Judge II, N.Paravur to the court of the Additional Sessions Judge I, N.Paravur and the Additional Sessions Judge I, N.Paravur shall dispose of the Sessions Case in accordance with law.

With these observations and directions the Transfer Petition (Crl.) is disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

