

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

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

WP(C).No. 28606 of 2015 (A)

PETITIONER :

**GRACY THOMAS,
W/O.THOMAS SCARIA , PULIKKUNNIL, AMBOORI,
NEYYATTINKARA.**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE GOVT. PLEADER/PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. EXCISE INSPECTOR,
AMARAVILA EXCISE RANGE, NEYYATTINKARA TALUK -695 001**

BY PUBLIC PROSECUTOR SMT. LILLY LESSLIE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.28606/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE FINAL REPORT IN CRIME NO.41/2004 DATED 23/11/2007 FILED BY THE EXCISE INSPECTOR, AMARAVILA**
- P2 COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE MEDICAL BOARD, GENERAL HOSPITAL, THIRUVANANTHAPURAM**
- P3 COPY OF THE CERTIFICATE ISSUED BY DR.RAJESH GOVERNMENT HOSPITAL, NEYYATTINKARA DATED 13/3/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

[CR]

B. KEMAL PASHA, J.

.....
W.P.(C) No.28606 of 2015
.....

Dated this the 28th day of September, 2015

J U D G M E N T

The husband of the petitioner is the accused in S.C.No.176/2004 of the Sessions Court, Thiruvananthapuram, registered for the offences punishable under Sections 55(a) and 8 (1) & (2) of the Abkari Act.

2. According to the petitioner, the accused is suffering from 80% disability and has become paralytic. It is also the case of the petitioner that the accused cannot understand any proceedings in court and is incapable of defending the case. It has been pointed out that he suffers from dementia and impaired cognition. The consultant physician of the General Hospital, Neyyattinkara has reported that the petitioner suffers from dementia and

impaired cognition with 50% neurological disability. The learned counsel for the petitioner has pointed out that last time the accused was taken to the court by an ambulance and immediately he was enlarged on bail also. Of course, for framing charges, the presence of the accused is required. For all other postings of the case, the court below shall dispense with the personal appearance of the accused.

3. On going through the facts and circumstances of the case, it seems that the procedure contemplated under Section 318 Cr.P.C. have to be complied with in this case. If the proceedings result in a conviction, the court below shall forward the entire proceedings to this Court with a report of the circumstances of the case under Section 318 Cr.P.C. With the said direction, this Writ Petition is disposed of.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge