

Kerala High Court

Munnar Woods vs State Of Kerala on 11 January, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Crl.MC.No. 4067 of 2009()

1. MUNNAR WOODS,  
... Petitioner  
  
Vs

1. STATE OF KERALA, REPRESENTED BY THE  
... Respondent

2. THE INVESTIGATING OFFICER,

3. THE SUPERINTENDENT OF POLICE,

For Petitioner :SRI.K.S.BHARATHAN

For Respondent :PUBLIC PROSECUTOR

The Hon'ble MR. Justice M.SASIDHARAN NAMBIAR

Dated :11/01/2010

O R D E R

M.SASIDHARAN NAMBIAR, J.

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CRL.M.C.No. 4067 OF 2009

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Dated this the 11th day of January,2010

ORDER

Petitioner filed Annexure 6 and 7 petitions (CMP 423/2009 and 424/2009) before Special Judge, Vigilance, Thrissur for interim custody of the documents seized by the Vigilance during investigation in V.C.1/2008 and produced before the learned Special Judge, under section 451 of Code of Criminal Procedure. By Annexure 8 order, A6 petition was dismissed. By Annexure 9 order Annexure 7 petition was dismissed. This petition is filed under section 482 of Code of Criminal

Procedure to quash Annexure 8 and 9 orders.

2. Learned counsel appearing for the petitioner and learned Public Prosecutor were heard.

3. Petitioner is a partnership firm. There are two partners to the firm. One Managing partner and M.S. Jayakumari. M.S. Jayakumari is the wife of the sole accused in V.C.1/2008. Prosecution case is that accused B.S. Radhakrishnan, a former Chief Engineer of KSEB amassed wealth disproportionate of his known source of income and he thereby committed the offence under section 13(1)(e) punishable under section 13 (2) of Prevention of Corruption Act. Annexure 6 and 7 petitions are the petitions for release of the documents relating to the partnership firm, seized during the investigation. Learned Special Judge dismissed Annexure 6 and 7 petitions finding that release of the vital documents at this stage would effect further investigation of the case.

4. On hearing the learned counsel appearing for the petitioner and the learned Public Prosecutor, it is clear that the learned Special Judge did not consider the application in the proper perspective. Learned Special Judge did not consider the question for what purpose the registered documents obtained by the firm, under which properties were purchased, are to be retained for the purpose of investigation and why a registration copy of the said documents will not serve the purpose. Similarly the question whether instead of retaining the original documents, retaining the certified copies of the documents would suffice for the purpose of investigation, was not considered by the learned Special Judge. Learned counsel appearing for the petitioner submitted that petitioner is prepared to substitute certified copies of the entire documents and is also prepared to give undertaking before the court below that the documents will be produced as and when required and in such circumstances the orders are to be quashed.

5. Learned Public Prosecutor pointed out that if after investigation it is to be found that the investment was that of the petitioner which is part of the disproportionate income of the accused, for the purpose of the trial the original documents will be necessary.

6. It is also submitted that for the purpose of proper investigation some of the original bills and vouchers and other documents will be necessary. It is seen from Annexure A8 and A9 orders that these aspects were not considered by the learned Special Judge and without a speaking order observing that releasing the documents would effect the further investigation, the petitions were dismissed.

7. In the circumstances of the case Annexure A8 and A9 orders are quashed. The Special Judge (Vigilance) is directed to reconsider CMP 423/2009 and 424/2009 and pass appropriate orders in accordance with law. Investigating Officer is permitted to point out which are the original documents necessary for the purpose of investigation. The Special Judge is directed to consider which all original documents are necessary to be retained for the purpose of investigation. He shall also consider whether by substituting the documents by certified copies, the documents could be released to the petitioner as sought on sufficient conditions and undertaking.

Petition is disposed.

M.SASIDHARAN NAMBIAR JUDGE tp1/-

M.SASIDHARAN NAMBIAR, J.

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W.P.(C).NO. /06

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JUDGMENT SEPTEMBER,2006