

Kerala High Court

Mujib vs State Of Kerala on 8 March, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Tr.P(Crl.).No. 16 of 2010()

1. MUJIB, AGED 27 YEARS,
... Petitioner

Vs

1. STATE OF KERALA,
... Respondent

For Petitioner :SRI.S.MOHANAN

For Respondent : No Appearance

The Hon'ble MR. Justice M.SASIDHARAN NAMBIAR

Dated :08/03/2010

O R D E R

M.SASIDHARAN NAMBIAR, J.

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Tr.P(Crl)No. 16 OF 2010
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Dated this the 8th day of March,2010

ORDER

Petitioner is the second accused in S.C.157/2008 on the file of Additional Sessions Court,Alappuzha. This petition is filed to transfer the case from Additional Sessions Court,Alappuzha to Additional Sessions Court, Mavelikara contending that most of the accused are residents of Kayamkulam and the alleged occurrence has also taken place within the jurisdiction of Additional Sessions Court, Mavelikkara and it is convenient to the accused to appear before Additional Sessions Court, Mavelikkara and appearance before Additional Sessions Court, Alappuzha causes difficulty to them and in such circumstances the case is to be transferred to Mavelikkara for trial.

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

3. The argument of the learned counsel is that as provided under section 177 of Code of Criminal Procedure every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed and under section 9(6) of the Code of Criminal Procedure the Court of Sessions shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; but, in any particular case it may hold its sittings at any other place in the sessions division as the High Court may permit by notification and as there is no such notification, the case cannot be tried by Additional Sessions Court, Alappuzha and it is to be transferred to Additional Sessions Court, Mavelikkara.

4. Section 197 of Code of Criminal Procedure only provides that an offence shall be tried by a court within whose local jurisdiction it was committed. Sessions Court, Alappuzha is having jurisdiction over the entire Sessions division, Alappuzha. Similarly Additional Sessions Court Alappuzha and Mavelikkara can try all cases in respect of offences committed within Alappuzha Sessions Division. Therefore petitioner is not entitled to contend that Additional Sessions Court, Alappuzha has no jurisdiction to try the present case as admittedly the offences were committed within the Sessions Division, Alappuzha.

5. Section 9(6) of Code of Criminal Procedure is to be applied, as canvassed by the learned counsel appearing for the petitioner, if Additional Sessions Court, Alappuzha is to hold its sitting at any other place in the sessions division, than the place where the court ordinarily hold its sitting. There is no case for the petitioner that Additional Sessions Court Alappuzha is not holding its sitting, where it ordinarily holds sittings. Therefore there is no violation of Section 9(6) also. Though learned counsel relied on Section 408 of Code of Criminal Procedure it has also no application as the Sessions Judge, Alappuzha is competent to make over any case to be tried by the Sessions Judge to Additional Sessions Court, Alappuzha or Additional Sessions Court, Mavelikkara. It could also be tried by the Sessions Judge himself. Though learned counsel also argued that it will be convenient for the accused to have the case tried at Mavelikkara, as the accused have to travel a long distance compared to Additional Sessions Court, Mavelikkara, if the case is to be tried at Alappuzha, the case cannot be transferred for the convenience of the accused.

Petition is dismissed.

M.SASIDHARAN NAMBIAR JUDGE tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /o6

JUDGMENT SEPTEMBER,2006