

K.M.Musthaffa vs 1. State Of Kerala Rep.By The Public ... on 28 June, 2022

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

Tuesday, the 28th day of June 2022 / 7th Ashadha, 1944

CRL.M.APPL.NO.1/2022 IN CRL.MC NO. 4171 OF 2022

CRIME NO.82/2017 OF RAILWAY POLICE STATION ERNAKULAM

C.C.791/2017 of the Judicial First Class Magistrate Court-I, Ernakulam

PETITIONER/ACCUSED NOS 2:

K.M.MUSTHAFFA AGED 43 YEARS S/O MUTHU, EMM MAIN STREET,
PERIYATHOTTAM,CHINNAMALAI, ERODE, TAMILANADU NOW RESIDING AT 676/1,
PATHAMPADAM, EDATHARA P.O, PALAKKAD DISTRICT, PIN - 678611

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA,
COCHIN., PIN - 682031
2. STATION HOUSE OFFICER, RAILWAY POLICE STATION, PLOT-1, SOUTH SIDE,
ERNAKULAM DISTRICT., PIN - 683011

Application praying that in the circumstances stated therein the High Court be pleased to stay all further proceedings in C.C.791/2017 on the file of the Judicial First Class Magistrate Court-I, Ernakulam as against the petitioner pending consideration of the above Criminal Miscellaneous petition to secure justice.

This Application coming on for admission upon perusing the application and upon hearing the arguments of M/s. K.SANEESH KUMAR and V.B.SANTHINI, Advocates for the petitioner and the Public Prosecutor for respondents, the court passed the following:

Crl.M.C.No.4171/22

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ZIYAD RAHMAN A.A., J.

Crl.M.C.No.4171 of 2022

&

Crl.M.A.No.1 of 2022

Dated this the 28th day of June, 2022

ORDER

Admit. The learned Public Prosecutor takes notice for the respondents.

The offences alleged against the petitioner in this case are under Sections 50, 59(ii) and 56 of the Food Safety and Standards Act, 2006 and also under Sections 269 and 273 of the Indian Penal Code. It is pointed out by the learned counsel for the petitioner that, as far as the prosecution for the offences under the Food Safety and Standards Act, 2006 is concerned, there is a separate mechanism contemplated under the Act and the 2 nd respondent is not competent to initiate prosecution in respect of the said offence as per the statutory scheme contemplated therein. Reliance was also placed on a judgment rendered by the High Court of Karnataka in Christy Fried Gram Industry, Bangalore and Another v. State of Karnataka and Others [2016 CriLJ 482]=[2016 KHC 2428].

On examining the entire aspect, I find a prima facie case in favour of the petitioner. In such circumstances, there shall be an interim order staying all further proceedings against the petitioner in C.C.No.791 of 2017 on the file of the Judicial First Class Magistrate Court-I, Ernakulam for a period of four months.

Sd/-

ZIYAD RAHMAN A.A. JUDGE DG/28.06.22 28-06-2022 /True Copy/ Assistant Registrar