

Joy K.M vs State Of Kerala on 6 June, 2022

Crl.M.C.No.3418/2022

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 6TH DAY OF JUNE 2022 / 16TH JYAISHTA, 1944
CRL.MC NO. 3418 OF 2022

PETITIONER/ACCUSED NO.4:

JOY K.M.,
AGED 75 YEARS,
MANAGING PARTNER, KUZHALANATTU BROTHERS, M.C ROAD,
KOOHATTUKULAM, PIN - 686 662.

BY ADVS.
P.M.RAFEEK
U.NIDHIN

RESPONDENTS/COMPLAINANT/OTHER ACCUSED:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031.
- 2 THE FOOD SAFETY OFFICER, PIRAVOM CIRCLE,
MINI CIVIL STATION, PIRAVOM, PIN - 686 664.
- 3 SEBASTIAN MATHEW,
S/O.MATHEW SEBASTIAN, VENUS SHOPPY, IX/367,
E,F,G CENTRAL JUNCTION, ELANJI P.O -686 665.
RESIDING AT KATTIMATTATHI HOUSE, ELANJI, PIN - 686
665.
- 4 SONY AUGUSTINE,
S/O.AUGUSTY, PARAKANDATHIL HOUSE, ELANJI,
ERNAKULAM, PIN - 686 665.

Crl.M.C.No.3418/2022

2

- 5 VEENUS SHOPPY,
IX/367, E,F,G CENTRAL JUNCTION, ELANJI P.O - 686
665, RESIDING AT KATTIMATTATHIL HOUSE, ELANJI P.O,
PIN - 686 665.

6 ANAND SAM,
PROPRIETOR, M/S. MARAYOOR TRADERS, 286/2, MARAYOOR
TOWN, MARAYOOR, IDUKKI, KERALA, PIN - 685 620.

BY SRI.PRASANTH M.P. PUBLIC PROSECUTOR

THIS CRIMINAL MISC.CASE HAVING COME UP FOR ADMISSION ON
06.06.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:
CrI.M.C.No.3418/2022 3

ORDER

The petitioner, who is the 4th accused in C.C.No.254 of 2019 on the file of the Judicial First Class Magistrate Court-III, Muvattupuzha, has approached this Court challenging Annexure-A4 order passed by the learned Magistrate in C.M.P.No.2417 of 2021. The aforesaid calendar case was registered on the basis of a complaint submitted by the 2nd respondent alleging offences punishable under Sections 3.1(zz) (v) and (vii), 26(2) (I), 59 (i) of Food Safety and Standard Act, 2006, Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. Initially prosecution was launched against only three accused persons. Later, on the basis of evidence adduced, the petitioner was also arrayed as the 4th accused on the basis of an application submitted by the 2nd respondent in this regard. The reason for implicating the petitioner as additional accused in the said case is that, it was revealed during the course of investigation that, the adulterated jaggery which was the subject matter of prosecution was alleged to have been purchased from the petitioner herein. The petitioner challenges the aforesaid order.

2. Heard both sides.

3. The learned counsel for the petitioner points out that, while allowing the application submitted by the 2nd respondent the learned Magistrate had arrived at a specific conclusion that the jaggery which was seized from the accused was purchased from the petitioner and therefore, he is liable to be prosecuted. It is pointed out that, as the finding entered by the learned Magistrate appears to be a concrete finding, it may cause prejudice to the accused during the course of trial.

I have gone through the records. It is true that on going through the observations made in the order, I find some force in the apprehension voiced by the learned counsel for the petitioner. It is to be observed in this regard that, the observations made by the learned Magistrate in this regard cannot be treated as a conclusive finding and on the other hand it can only be treated as a prima facie finding. The involvement of the petitioner/4th accused is to be established by the prosecution during the course of evidence with positive evidence.

In such circumstances, this CrI.M.C. is disposed of, making it clear that the observations made by the learned Magistrate as to the role of the petitioner is only to be treated as a prima facie finding and the complicity of the petitioner/4th accused is to be adjudicated by the learned Magistrate

during the course of trial, based on the evidence to be adduced by the prosecution untrammelled by any observations in Annexure-A4 order.

Sd/-

ZIYAD RAHMAN A.A. JUDGE DG/6.6.22 PETITIONER ANNEXURES Annexure1 TRUE COPY OF COMPLAINT DATED 09/08/2019 FILED BY THE FOOD SAFETY OFFICER BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT III, MUVATTUPUZHA Annexure2 TRUE COPY OF THE C.M.P NO. 1731/2021 DATED 17/09/2021 Annexure3 TRUE COPY OF THE C.M.P NO. 2417/2021 DATED 11/11/2021 Annexure4 CERTIFIED COPY OF THE ORDER DATED 18/11/2021