

**IN THE SPECIAL COURT FOR PMLA CASES /
SPECIAL COURT(SPE/CBI)-II / IV ADDITIONAL SESSIONS COURT,
ERNAKULAM**

Present :- Shri. Kamanees K., Judge for PMLA Cases
Saturday, the 03rd day of September, 2022 / 12th Bhadra, 1944

Crl.M.P Nos. 640/2018 and 641/2018

in

S.C No. 329/2017

Crl.M.P No. 640/2018

Petitioner / Accused No. 5:-

J. Sivadasan Pillai, Aged 82 years,
S/o. Janardhanan Pillai,
Guruvayoorappan Villa, Kizhuvilam P.O.,
Mamom, Attingal, Trivandrum.

By Adv. Sri. John.S.Ralph

Respondent / Complainant :-

Govt. of India
Represented by Asst. Director, Director of Enforcement, Kochi.

By Sri. K.V.Sabu, Public Prosecutor

Crl.M.P No. 641/2018

Petitioner / Accused No. 8:-

S.Mangalan, Aged 66 years,
S/o. Sadasivan, Kaippally Veedu,
Kadakavoor P.O, Attingal, Trivandrum

By Adv. Sri. Deepak B.

Respondent/Complainant :-

Govt. of India

Represented by Asst. Director, Director of Enforcement, Kochi.

K.V.Sabu, Public Prosecutor.

These petitions having been heard on 03/09/2022 and the court on the same day passed the following :-

COMMON ORDER

1) These two applications have been filed by the accused persons 5 and 8 respectively claiming for permanent exemption under section 205 Cr.PC.

2) Shri.Sivadasan Pillai (A5), an octogenarian who is being treated for high diabetes and hyper tension for the past two decades, also suffers from peripheral neuritis, diabetic peripheral vascular disease and polyuria. Considering his age and ailments he has been advised not to travel much and a medical certificate issued by Dr.V.Suresh Kumar, his treating doctor has been filed. He has authorised his counsel to represent him in all future proceedings of the case including answering the charge, answering the questions under section 313 Cr.PC, filing written statements etc. As and when specifically ordered, he abides himself to be present. The question of identification shall not arise in this case and he does not intend to challenge the same.

3) Like that, the accused Shri. S.Mangalan (A8) states that he had undergone a liver transplantation and now proceeding follow up treatments. He needs to take multiple drugs and injections on a daily basis and he is also not in a position to travel. He has also produced a medical certificate to that effect. He has also undertaken in the affidavit the same way as the accused No.5 did.

4) Both the applications are objected by the respondent, Enforcement Directorate stating that the charge has not even been framed yet, though 5 years has been elapsed since the case has numbered as Sessions case. The accused persons had not appeared in and hence the delay occurred. The reasons set forth are not sufficient.

5) Heard both sides.

6) The medical certificate accompanying the petition of Shri.Sivadasan Pillai (A5) shows that the person has ailments which he mentioned in the affidavit. Considering his age as well as ailments and also for the reason that he is not challenging the identification aspects, the petition can be allowed. Like that, in the case of Shri.S.Mangalan (A8) also, same stand has to be adopted as he has undergone a liver transplant operation and runs heavy health hazards.

7) The chief objection of the Enforcement Directorate is that the charge has not been framed. There is no impediment in framing of the charge as the accused persons can exercise their options appearing through video conferencing

or by way of filing special vakkalath. They can have their plea recorded through the counsel engaged by them. The application for video linkage facility can also be moved by the prosecution.

In the result, both the applications are allowed. The accused persons 5 and 8 are exempted from personal appearance under section 205 Cr.PC. It is made clear that whenever it is specifically called for, the accused persons should appear in person.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court this the 3rd day of September, 2022.

Sd/-
Kamanees K.
Judge
Special Court for PMLA Cases

APPENDIX:-NIL

Id/-
Judge
Special Court for PMLA Cases

// True Copy //

Judge
Special Court for PMLA Cases

Typed by : jcs
Comp.by : skp

Common Order in
Crl.M.P Nos. 640/2018 & 641/2018 in
S.C No. 329/2017
dated 03/09/2022