

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE – II,
THIRUVANANTHAPURAM**

PRESENT: SRI. ROY VARGHEESE, ADDITIONAL SESSIONS JUDGE – II

Saturday the 26th day of August, 2017/ 4th Bhadra 1939

SESSIONS CASE No. 968/2015

(C.P. No.04//2015 of Judicial First Class Magistrate Court- III,
Thiruvananthapuram.)

Crime No. 187/CR/S1/2000 of CBCID OCW – 1)

ACCUSED:-

Satheesan @ Preman, S/o. Arjunan,
Remya Bhavan, Muttottukonam,
Kulachal Desom, Vamanapuram Village, Nedumangad Taluk.
By Adv. Pradeep Radhakrishnan

COMPLAINANT:-

State of Kerala, represented by
Additional Public Prosecutor.

Additional Public Prosecutor- Sri. Pallichal S.K. Pramod

Charge : U/s. 489 B, C & 34 IPC

Sentence : Accused is discharged from the offences
alleged in the charge sheet in SC. 968/2015.

This Sessions Case having been finally heard on 26..08.2017
and the court on same day delivered the following:

JUDGMENT

This case stands charge sheeted by the Detective Inspector, Crime Branch CID-OCW-1, Thiruvananthapuram alleging offence punishable u/s.489 (B)(C) r/w.34 IPC in CBCID Crime No.187/CR/S1/2000. The FIR in this case was registered by the Cantonment police in its crime No.81/2000.

2) On investigation, it was revealed that the accused numbers 3,4 and 5 handed over forged currency notes to accused no.1 on a day within 2 months prior to 21/05/2010. The accused numbers 1, 2 and 6 kept those notes for transacting them as genuine and thereby committed offences mentioned above.

3) Accordingly, the accused were arrested and remanded. After this, the 1st accused was arrested in another crime in Gujarath and was in Bardoli jail in Surat district. The Judicial First Class Magistrate-III, Thiruvananthapuram committed the accused nos.1 to 6 in CP No.4/15. The 1st accused was produced before the committal court on production warrant and was committed to this Court. From then onwards, the first accused is in

the judicial custody.

4) It was heard on charge on 21/08/17. The learned Public Prosecutor submitted that the materials produced in this case are sufficient to disclose the suspicious circumstances against the accused persons for framing charge. The counsel for the 5th accused submitted that apart from the mere allegation of involvement in the crime no statement or material has been produced to show that he was involved in the crime. There is nothing to incriminate the 5th accused in the case. Even if the statements of the witnesses recorded u/s.161 Cr.P.C are taken as such, nothing comes out against A5.

5) In the circumstances, the point raised for consideration is :

i) Whether there is any ground to proceed against the accused?

A perusal of the charge sheet filed reveals that the 5th accused is incriminated not on the basis of any statement or materials. There is no recovery from A5. Absolutely there is nothing to connect the involvement of A5 in the crime. No materials are available from the

charge sheet to substantiate the complicity of the 5th accused with the case. The offences levelled against him are attracted only if there is some material or witness statements to show that he used, transacted or intentionally or knowingly possessed forfeited currencies in the absence of any such allegations the charge against A5 cannot be framed. Going by the dictum laid down by the Apex Court in State of Bihar Vs. Ramesh Singh (1997 (4) SCC 39)

“ if the evidence, which the prosecution proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross examination or rebutted by the defence evidence, cannot show that the accused committed the offence, then there would be no sufficient ground for proceeding with the trial”

In the case on hand, even if the entire prosecution materials are accepted as such, there is nothing to implicate A5 in the crime. Eventhough, at the stage of framing charge, the Court need not going to the details as if in trial and a mere suspicion is sufficient, in the absence of anything to suspect the involvement of A5, this Court

has no option other than to discharge him. In the circumstances, the 5th accused is discharged from the offences alleged in the charge sheet in SC No.968/15.

(Dictated to the C.A, transcribed by her, corrected and pronounced by me in Open Court on this the 26th day of August 2017).

Sd/-
ROY VARGHESE
ADDITIONAL SESSIONS JUDGE – II

APPENDIX:- NIL

Id/-
ADDITIONAL SESSIONS JUDGE – II

" True Copy"

(By Order)

SHERISTADAR

PRAV (4) : COMP: FCS:

COPY OF JUDGMENT IN

SC NO.968/2015

Dated: 26/08/2017