

PROCEEDINGS OF THE ADDL. SESSIONS JUDGE-I, THRISSUR

Present:- Sri. C. Soundaresh, BA, LL.B., Additional Sessions Judge-I

Order in SC 673/2011 Corresponding to CP No. 5/2011 of
Judicial Magistrate of First Class at Chavakkad
Dated: 03.07.2018.

Transfer u/s 228(1) (a) of Cr.P.C.-Reg.

The sole accused stands charged by the Sub Inspector of Police, Chavakkad Police Station, alleging for the commission of the offences punishable under Sections 366(A) of IPC.

2. On going through the available records, it is seen that on the receipt of the statement from CW1 a crime was registered by CW11 and after completing investigation, CW12 filed the Final Report as Charge Sheet filed before the Court of Judicial Magistrate of First Class at Chavakkad and taken on file as C.P .5/2011 and the entire case against the accused has been committed before the Court of Sessions at Thrissur after complying with the provisions under Sections 207 and 209(a) to (d) of Cr.P.C., vide Order dtd.25.7.2011 it was renumbered as S.C.673/2011 and later made over to this Court.

3. On the appearance of the accused, after perusal of the records and also after hearing both sides, I am satisfied that the offences alleged against the accused are punishable under aforesaid Section 363 of IPC (ie.,punishment is below 7 years). In the dictum laid down in Thressiama Varkey v. State of Kerala reported in 2017(3) KLT 216, the Hon'ble High

Court of Kerala had viewed that, these type of cases, ie., punishment below seven years (except Protection of Children from Sexual Offences Act) is to be tried by the Magistrate concerned and not by the Sessions Court. Hence, I am of the opinion that there is no ground for presuming that the accused had committed an offence which is exclusively triable by a Court of Sessions. Hence a charge for the aforesaid offences framed. So the entire case against the accused is to be transferred to the Court of Judicial Magistrate of First Class concerned in view of Section 228(1) (a) of Cr.P.C. coupled with the dictum laid down in the decision cited above.

In the result,

- (a) The case – S.C. 673/2013 is transferred to the Court of Judicial Magistrate of First Class II at Thrissur for trial and disposal as per law.
- (b) The accused/A3 is directed to appear before that Court on 30.08.2018
- (c) Forward the entire case records without causing any delay.

Accordingly ordered.

Sd/-
C.SOUNDARESH
ADDL.SESIONS JUDGE- I.

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ADDL.SESIONS JUDGE- I.

