

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 1683-1686 OF 2005

K.P. VISWANATHAN

Appellant (s)

VERSUS

V. MUSTHAFA & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and office report)

WITH CRIMINAL APPEAL NOS. 1687-1690 of 2005

(With office report)

Date: 29/07/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE DR. JUSTICE B.S. CHAUHAN

For Appellant(s)

Mr. R. Chandrachud,Adv.

Mr. K.R. Sasiprabhu,Adv.

For Respondent(s)

Mr. G. Prakash,Adv.

Mr. Senthil,Adv.

Mr. Ramesh Babu M.R.,Adv.

Mr. C.K. Sasi ,Adv

Mr. B. Ragunath,Adv.

Mr. R. Nedumaran,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard both sides.

The Criminal appeals are allowed in terms of the signed order.

[Madhu Bala]

Sr.PA

(Signed order is placed on the file)

[Savita Sainani]

Court Master

IN THE SUPREME COURT OF INIDA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1683-1686 OF 2005

K.P. VISWANATHAN

.... APPELLANT

VERSUS

MUSTHAFA & ORS.

....RESPONDENT/(S)

WITH

CRIMINAL APPEAL NOS. 1687-1690/2005

O R D E R

Heard both sides.

The appellants-Shri K.P. Viswanathan and the State of Kerala aggrieved by the order dated 08.02.2005 passed by

the High Court of Kerala in Bail Application Nos. 296/2005(B), 316/2005(D), 328/2005(A) and 358/2005(D) in respect of certain strictures and admonitions against the State Government and Shri K.P. Viswanathan, in particular, have filed the above appeals. In these appeals they prayed for expunging those remarks.

In view of the limited relief, there is no need to traverse factual details and the reasoning of the High Court granting relief to the persons who approached the High Court for grant of bail.

The only contention of the counsel for the appellants is that, without any opportunity, more particularly, to Shri K.P. Viswanathan, who was not a party, the High Court made serious strictures against him. The counsel submitted that Shri K.P. Viswanathan not being

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a party, without giving an opportunity to put forth his case arrives at such conclusion relying on the averments in bail application is not warranted and cannot be sustained.

We perused those paragraphs. It is true that the High Court based on the averments in the application filed for grant of bail made certain derogatory remarks against Shri K.P. Viswanathan, who was a Minister for Forests at the relevant time. This Court in a series of decisions has held that no adverse order against any individual being not a party to the proceeding be passed without affording an opportunity to put forth his case. It is not in dispute that the said Shri K.P. Viswanathan was not a party before the High Court. In such circumstance, we feel that the remarks made against him cannot be sustained.

In view of the same, without going into the merits of the other part of the order of the High Court, we expunge all the remarks made against him.

The Criminal appeals are allowed.

.....J.
[P. SATHASIVAM]

.....J.
[DR. B.S. CHAUHAN]

NEW DELHI
29TH JULY, 2010