

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.227 OF 2017

[ARISING FROM SPECIAL LEAVE PETITION (CRIMINAL) NO.1048/2017]

[ARISING FROM CRL.M.P. NO.732/2017]

UMESH

APPELLANT (S)

VERSUS

STATE OF KERALA

RESPONDENT (S)

WITH

CRIMINAL APPEAL NO.228 OF 2017

[ARISING FROM SPECIAL LEAVE PETITION (CRIMINAL) NO.1049/2017]

[ARISING FROM CRL.M.P. NO.826/2017]

J U D G M E N T

KURIAN, J.

Delay condoned.

2. Leave granted.

3. In the nature of order we propose to pass in these matters it is not necessary to issue notice to the respondents.

4. The appellant is aggrieved by the refusal on the part of the High Court in quashing the criminal proceedings now pending before the Judicial Magistrate, First Class, Chavakkad in CC Nos.289/1996 and 280/1996. The appellant is accused No.5 in both the cases.

5. According to the appellant, since he was not available for trial, trial in his case was separated and the Trial Court proceeded as against all the other accused. In CC No.289/1996, the first accused was convicted and the rest of the accused persons were acquitted and in the CC No.280/1996 all the accused persons have been acquitted. Therefore, according to the learned counsel for the appellant, the continuance of the proceedings before the Magistrate Court, as far as the appellant is concerned, is unnecessary harassment and wastage of time.

6. We find it difficult to appreciate the contention. Even if all contentions taken by the appellant are taken on their face value also, it is for the Magistrate concerned to consider those contentions in an appropriate application filed under Section 239 of the Cr.P.C.

7. In that view of the matter, we do not propose to go into all the contentions taken by the appellant. The appeals are hence disposed of as follows:

The appellant shall surrender before the Judicial Magistrate, First Class, Chavakkad, where the criminal cases are pending, within four weeks from today. On thus surrendering, on the appellant's furnishing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand), in each case, along with two solvent sureties for the like amount, the appellant shall be released on bail. The appellant will be free to file applications under Section 239 Cr.P.C.

8. We direct the learned Magistrate to consider the applications, if any filed, having regard to the contentions taken by the appellant and dispose of the same, in accordance with law.

9. Pending application(s), if any, shall stand disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[A.M. KHANWILKAR]

NEW DELHI;
FEBRUARY 03, 2017.



JUDGMENT