

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Cr1.RC.No. 1869 of 2018

ORDER IN ST NO.2443/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. ..

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PALLITHOTTAM CR.250/2013.
- 2 NAUFAL SHA,
S/O.SHAMSUDEEN, S.N.MANZIL,
UMAYANALLOR, KIZHAKUMKARA THEKKE CHERI,
MAYYANADU VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:2544 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2544 of 2018

ORDER IN ST NO.6074/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. ..

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.903/2015.
- 2 ABHISHEK, S/O. PRABHAKARAN,
VIJAYAPURAM, COLONY (NEAR MERCY COLLEGE),
PALAKKAD VILLAGE, PALAKKAD DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.AJITH MURALI

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2574 of 2018

ORDER IN ST NO.9054/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. ..

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.1438/2015.
- 2 ARUN NISHANTH, S/O. MICHAEL RAJ,
SANDHYA DALE, PETTADATHU PURAYIDAM,
NEAR MUDHAKARA CHURCH, KOLLAM WEST VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.AJITH MURALI

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2587 of 2018

ORDER IN ST NO.7857/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. . .

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.1395/2014.
- 2 SAJAD, S/O. RAHIM,
SURIYANI PALLYPURAYIDATHIL, JONAKAPURAM,
PALLITHOTTAM CHERI, KOLLAM EAST VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2593 of 2018

ORDER IN ST NO.9050/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. . .

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.1434/2015.
- 2 JANSON, S/O. NELSON,
KIDANGU PURAYIDATHIL, THANGASSERY,
KAIKULANGARA CHERI, KOLLAM WEST VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2595 of 2018

ORDER IN ST NO.7686/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. . .

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.1069/2015.
- 2 BABU, S/O. JOSEPH,
EAST WEST NAGAR-99, CONVENT ROAD,
THANKASSERY, KOLLAM WEST.

R1 BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2597 of 2018

ORDER IN ST NO.9049/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. . .

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.1433/2015.
- 2 ANIL, S/O. JOSEPH,
KUZHUVAYAL PURAYIDATHIL, NEAR VADY STORE,
KAIKULANGARA CHERI, KOLLAM WEST VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 20TH DAY OF MAY 2019 / 30TH VAISAKHA, 1941

Crl.RC.No. 2746 of 2018

ORDER IN ST NO.9184/2015 OF THE JUDICIAL MAGISTRATE OF FIRST
CLASS-III (TEMPORARY), KOLLAM

PETITIONER/APPELLANT:

SUO MOTU PROCEEDINGS AS PER THE RESOLUTION OF THE
ADMINISTRATIVE COMMITTEE IN ITS MEETING HELD ON
18/09/2017.

BY ADV. . .

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOLLAM WEST, CR.2246/2015.
- 2 RATHEESH, S/O. GOPALAKRISHNAN,
PUTHUVAL PURAYIDAM, PULLIKKADA CHERI,
KOLLAM EAST VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL REVISION CASE HAVING BEEN FINALLY HEARD ON
20.05.2019, ALONG WITH CRL.RC:1869 OF 2018 & OTHER CONTD. CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

These revision petitions are registered suo motu against the orders of discharge passed by the learned Judicial Magistrate of the First Class III (Temporary), Kollam invoking the powers under Section 258 of the Code of Criminal Procedure.

2. It was brought to the notice of this Court by the Chief Judicial Magistrate Court, Kollam that the courts below had disposed large number of cases invoking Section 258 of the Cr.P.C. The cases thus disposed include cases registered under Section 15(c) r/w. Section 63 of the Abkari Act, Section 27(b) of the Narcotic Drugs and Psychotropic Substances Act, and Section 279 of the IPC r/w. Section 185 of the Motor Vehicles Act.

3. On noticing that the manner of disposal of the criminal proceedings had resulted in failure of justice, suo motu revision petitions were ordered to be registered.

4. From the proceedings sheet, it is evident that the accused were discharged owing to the failure of the prosecution to procure the presence of the accused before the court. It does not appear from the proceeding sheet that summons were served on the accused or that

the non-bailable warrant was returned unexecuted. The order sheet also does not show whether process was actually issued from the court below.

5. After admitting these matters, notice was issued to the respondents from this Court and the same was served. However, there is no appearance.

6. Section 258 of the Cr.P.C. is an enabling section which gives power to a Magistrate of the First Class or with the previous sanction of the Chief Judicial Magistrate, any other judicial Magistrate, to stop the proceedings at any stage without pronouncing a judgment by recording the reasons for the same. The provision states that where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, the learned Magistrate shall pronounce a judgment of acquittal. In any other case, the court is empowered to release the accused and such release shall have the effect of discharge.

7. Section 258 can be invoked only in peculiar and unusual circumstances in cases, wherein no prima facie case is made out against the accused or when the accusation does not actually

constitute an offence or for the reason that the prosecution is bound to fail on account of a technical defect. For the reason that the accused had absconded or that despite the initiation of coercive proceedings, his presence could not be secured is no reason to invoke Section 258 of the Cr.P.C. From the proceedings sheet, it does not appear that the learned Magistrate had made any genuine endeavour to secure the presence of the accused by exhausting the provisions under the Code. The order is laconic and is not supported by any reasons. The learned Magistrate has exceeded in its powers in invoking provisions of Section 258 of the Code and hence, cannot be sustained, the same being illegal and irregular.

8. These revision cases are allowed. The orders passed by the learned Magistrate in the Summary Trial Cases are set aside. The learned Magistrate is directed to take back the cases on file and proceed with the same in accordance with law.

Registry shall transmit the records to the court below.

SD/-
RAJA VIJAYARAGHAVAN V. ,
JUDGE

KRJ

//TRUE COPY// P.A. TO JUDGE