IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.SOMARAJAN

WEDNESDAY, THE 21st DAY OF FEBRUARY 2024 / 2ND PHALGUNA, 1945

CRL.REV.PET NO. 206 OF 2024

CRIME NO.387/2023 OF TOWN NORTH POLICE STATION, PALAKKAD

AGAINST THE ORDER DATED 04.01.2024 IN CMP No.9037/2023 IN CC 754/2023

OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, PALAKKAD

REVISION PETITIONERS/PETITIONERS 1 TO 3/ACCUSED 2 TO 4:

1 SUNITHA, AGED 47 YEARS,
W/o DINESH, CHANDRAKANTHAM,
MANKAVU KALAM, MANKAVU, PALAKKAD, PIN - 678001

2 DARSAN, AGED 24 YEARS,
S/o DINESH, CHANDRAKANTHAM, MANKAVU KALAM,
MANKAVU, PALAKKAD, PIN - 678001

3 DHANUSH, AGED 22 YEARS,
S/o DINESH, CHANDRAKANTHAM, MANKAVU KALAM,
MANKAVU, PALAKKAD, PIN - 678001

BY ADV SHABU SREEDHARAN

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

BY PUBLLC PROSECUTOR SRI. SANGEETHARAJ N.R

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 21.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

It is in connection with the destruction of a 'Balalayam', (a place wherein the idol was shifted temporarily), a crime was registered and final report was submitted as against accused Nos.1 to 4 for the offences under Section 447, 427 r/w Section 34 IPC. The allegation against accused Nos.3 and 4 is that they conspired with the accused No.1 and 2 and went to the 'Balalayam' and it is thereafter accused No.1 along with his wife, accused No.2 with an axe destructed the 'Balalayam'.

2. The offence punishable under Section 447 IPC may not stand since the accused No.1 is the co-owner of the property. In so far as offence punishable under Section 427 IPC is concerned, no material was collected in order to show the involvement of accused Nos. 2 to 4. The main allegation is against accused No.1. Necessarily, if it is proceeded as against accused Nos.2 to 4, it will be a futile exercise and will not lead to the conviction for the said offences. Hence, the trial court ought to have allowed discharge of accused Nos.2 to 4. The discharge

application will stand allowed by setting aside the order of trial court as against accused Nos.2 to 4.

The Criminal Revision Petition will stand allowed accordingly.

Sd/-

P.SOMARAJAN

JUDGE

DMR/-

APPENDIX OF CRL.REV.PET 206/2024

PETITIONERS' ANNEXURES

Annexure-1	THE TRUE COPY OF THE FIS DATED 16.4.2023 IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-2	THE TRUE COPY OF THE FIR DATED 16.4.2023 IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-3	THE TRUE COPY OF THE ORDER CRL MC NO. 1684/2023 DATED 4.5.2023 OF THE 1ST ADDL. SESSIONS COURT, PALAKKAD
Annexure-4	THE TRUE COPY OF THE REPORT DATED 10.5.2023 FILED BY THE SI OF POLICE, PALAKKAD TOWN NORTH POLICE BEFORE THE CJM COURT, PALAKKAD
Annexure-5	THE TRUE COPY OF THE CHARGE SHEET DATED 7.6.2023 IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-6	THE TRUE COPY OF THE SCENE MAHAZAR DATED 17.4.2023 IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-7	THE TRUE COPY OF THE MAHAZURE DATED 26.4.2023 OF THE PEN DRIVE CONTAINING THE CCTV FOOTAGE IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-8	THE TRUE COPY OF THE MEMORANDUM OF EVIDENCE DATED NIL IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-9	THE TRUE COPY OF THE STATEMENTS OF WITNESSES OF VARIOUS DATES IN CRIME NO. 387/2023 OF PALAKKAD TOWN NORTH POLICE STATION
Annexure-10	THE TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) NO. 21364/2020 DATED 19.6.2023

Annexure-11	THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN CRL MC NO. 9360/2023 DATED 8.11.2023
Annexure-12	THE TRUE COPY OF THE CMP NO. 9037/2023 WITHOUT THE ANNEXURES THEREIN FILED BY THE PETITIONERS BEFORE THE JFCM COURT-II, PALAKKAD DATED 20.11.2023
Annexure-13	THE FREE COPY OF THE ORDER OF THE JFCM COURT-II, PALAKKAD IN CMP NO. 9037/2023 IN CC NO. 754/2023 DATED 4.1.2024

// TRUE COPY //

P.A. TO JUDGE