

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 6TH AUGUST 2009 / 15TH SRAVANA 1931

Crl.MC.No. 2113 of 2009()

CC.47/2002 of ENQUIRY COMMR. & SPL.JUDGE, KOZHIKODE

PETITIONER(S): 5TH ACCUSED:

V.V.JOSEPH, S/O.VERKEY, AGED 70 YEARS,
VETTIYANKAL HOUSE, PERMANGALAM, KALOOR PO.,
KALLURKKAD, THODUPUZHA.

BY ADV. MR.BINU PAUL (NETTOOR)

RESPONDENT(S): COMPLAINANT:

STATE OF KERALA REPRESENTED BY
DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE, ANTI CORRUPTION BUREAU, WAYANAD
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR MR. AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06/08/2009, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Kss

M.SASIDHARAN NAMBIAR,J.

CRL.M.C.NO. 2113 OF 2009

Dated 6th August 2009

O R D E R

Petitioner is fifth accused in C.C.47/2002 on the file of Special Judge, Vigilance, Kozhikode. Petitioner is facing trial along with ten others for the offences under Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act and Sections 409, 167, 120 B of Indian Penal Code. This petition is filed under Section 482 of Code of Criminal Procedure to quash the proceedings as against petitioner contending that the vigilance case is based on a wrong assumption that 74 acres of land in R.S.1130 of Thondarnadu village was a vested forest as Annexure-A4 establishes the exact legal position and that question could be determined only after survey and in CrI.M.C.6636/2002 this court has quashed the case pending before C.C.124/2001 registered for the offence under Section 27(1)(c)(iii) of Kerala Forest Act and in such circumstances, continuation of the proceedings is only an abuse of

process of court.

2. Learned counsel appearing for petitioner and learned Public Prosecutor were heard.

3. Learned Public Prosecutor submitted that evidence of the prosecution has already been completed and case now stands for questioning the accused under Section 313 of Code of Criminal Procedure. This fact is admitted by the learned counsel appearing for petitioner also. In such circumstances, it is not for this court to exercise the extra ordinary inherent powers under Section 482 of Code of Criminal Procedure at this stage. Petitioner is entitled to raise all the contentions raised herein, before the Special Judge, Vigilance, Kozhikode.

Petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.