(2004) 11 KL CK 0064

High Court Of Kerala

Case No: Criminal M.C. No. 3151 of 2004

Umesh		APPELLANT
	Vs	
State of Kerala		RESPONDENT

Date of Decision: Nov. 25, 2004

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 143, 147, 148, 149, 307

Citation: (2005) 1 KLT 493

Hon'ble Judges: J.M. James, J

Bench: Single Bench

Advocate: Promy Kaprakkatt, Sunil Nair Palakkatt and K.N. Abhilash, for the Appellant; T.K. Latheef, Public Prosecutor, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

J.M. James, J.
The petitioner is C.W.9 in S.C. No. 346/2001 on the file of the Assistant Sessions Court, Payyannur. The offences alleged against the 2nd accused in other cases are u/s 307 read with Section 34 of the Indian Penal Code. The offences alleged against the 14th accused are under Sections 143, 147, 148 and 307 read with Section 149 of IPC. The case came up for examination of the witnesses before the Court. But the learned Assistant Sessions Judge did not examine the witness and repeatedly adjourned the case, because of it the petitioner would find difficulty in attending the Court and also going for other engagements. Hence he came up before this Court by filing this petition u/s 482 Cr.P.C. praying that a direction may be given to the Court below to examine him in the case, at the earliest, in any event, on 30.11.2004 when the case is posted for trial.

2. Annexure-A is true copy of the docket sheet produced by the petitioner. It shows that the petitioner along with other six witnesses were present. The Court examined four witnesses. Three witnesses including this petitioner was bounced over to be examined on the next posting date, that was 19.10.2004. On that day also, he was not examined and he was bound over to be present on 28.10.2004. It is seen that he was not examined though he was present in the Court and the case was adjourned for want of time to 4.11.2004. This story repeated not only on 4.11.2004 but also on 5.11.2004 and the case now stands adjourned to 30.11.2004.

3. It is submitted that the petitioner has got urgent engagements and he will have to leave the place on 2.12.2004. Therefore, his examination is necessary at least on 30.11.2004 itself. The learned counsel for the petitioner hence urged that unless the interest of the petitioner is protected, it would cause difficulties for the petitioner.

4. The counsel relied on State of U.P. v. Shambhu Nath Singh 2001 (2) KLT 159 , to emphasis the point that the witnesses once summoned has to be examined without keeping them waiting till the evening of that day. I agree with the above principles of law. Once a witness is summoned, as far as possible, examination of that witnesses have to be completed. It is the duty of the Presiding Officer of the Court to exhaust the list of witnesses for the day by examining them. The Presiding Officer has to assess the nature of evidence of each witness before arranging and scheduling the work for the day, particularly summoning the number of witnesses for examination. More witnesses could be summoned in a day if their evidence is short. On the other hand, if the examination is expected to be long due to the importance of evidence of that witness, the number of such witness summoned for the day is to be limited and work arranged conveniently. In the case at hand, on five occasions, C.W.9 and others came and stood before the Court. The Presiding Officer has to feel the heart burn of such person and his resentment toward the judicial system. He may even decline to turn up for the next occasion. This is to be avoided in any event by the Courts. Court management is anart. It is to be practised with perfection to achieve best results and to instill confidence in the mind of the persons who attend the Court. It is not seen done in this case. The learned Assistant Sessions Judge, shall, therefore, ensure that the left over witnesses in the sessions case are examined on the next posting date i.e., on 30.11.2004.

5. Hence I allow this petition and direct the Court below to examine and complete examination of the petitioner, C.W.9 in the Sessions Case and relieve him on that date itself.

6. The Criminal M.C. is disposed of as above