

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

WEDNESDAY, THE 18TH DAY OF MAY 2022 / 28TH VAISAKHA, 1944

OP (CRL.) NO. 197 OF 2022

CRIME NO.2/2022 OF Parappanangadi Excise Range Office,
Malappuram

AGAINST THE ORDER/JUDGMENT IN SC 353/2022 OF SPECIAL
COURT (ATROCITIES AGAINST SC/ST), MANJERI

PETITIONER/ACCUSED:

ERAJ
AGED 40 YEARS
HUDAHARAPUR P.O, RANI NAGAR-1 TALUK,
HARAPUR VILLAGE, HARAPUR RAJALI PARA DESOM
MURSHIDABAD DISTRICT,
WEST BENGAL,, PIN - 742304

BY ADVS.
NAVANEETH.N.NATH
N.RAJI

RESPONDENT/COMPLAINANT:

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

BY P.P. SMT. SEENA C.

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
18.05.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 18th day of May, 2022.

In the petition on hand an order passed by Special Court for SC/ST (POA) Act & NDPS Act cases, Manjeri in S.C. No.353/2022, which was originated from Crime No.02/2022 of Excise Range Office, Parappanangadi is under challenge. The copy of the impugned order is produced alongwith the petition on hand as Ext.P2. The order reads :

“ 7.4.2022. Accused absent. No representation. Issue non-bailable warrant against accused and notice to sureties. Call on 3.5.2022.”

2. The grievance of the petitioner is that he was chargesheeted for offences punishable under Sections 20(b)(ii)B of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short NDPS Act) and final report was filed. In the crime, he was granted bail on 25.3.2022 and he was released on 31.3.2022. As per Ext.P2, the case was taken up by the Special Court on 07.04.2022 and it was

recorded that the accused was absent and representation was not for him. Therefore, NBW was ordered against the accused and notice was ordered against the sureties. The learned counsel for the petitioner has produced the proceedings sheet of S.C.No.353/2022 wherefrom it is seen that 07.04.2022 is the first posting of the case after granting bail to the petitioner.

3. It is revealed from the materials furnished that summons was not ordered to be issued to the accused for his appearance before the court. Without issuing summons, issuance of warrant to the petitioner and notice to the sureties was resorted to. The Special Court is highly unjustified in doing so.

In the above circumstances, this Court is inclined to allow the O.P.(Crl.) and to set aside Ext.P2 order. The court below shall proceed to issue summons to the petitioner for his appearance before the court.

Sd/-
MARY JOSEPH
JUDGE

al/-+

APPENDIX OF OP(CRL.) 197/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE ORDER OF THIS HON'BLE COURT DATED 25/03/2022 IN BA 1946 OF 2022
- Exhibit P2 CERTIFIED COPY OF THE PROCEEDINGS DATED 07/04/2022 IN SC. NO.353/2022 ON THE FILES OF SPECIAL COURT FOR SC/ST (POA) ACT & NDPS ACT CASE, MANJERI IN CRIME NO: 02/2022 OF EXCISE RANGE OFFICE PARAPPANANGADI
- Exhibit P3 TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT IN AMAN PREET SINGH V. C.B.I. THROUGH DIRECTOR (MANU/SC/0599/2021 : 2021 (5) KLT ONLINE 1119
- Exhibit P4 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN RADHAKRISHNAN VS. STATE OF KERALA (2021 (5) KLT 516)