

SUPREME COURT OF INDIA

K-Link Healthcare (India) Pvt. Ltd.

Vs.

State of Kerala

C.A.No.6314 of 2017

(Kurian Joseph and R.Banumathi,JJ.,)

03.05.2017

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.14919/2015

1. Leave granted.
2. The appellant is before this Court, aggrieved by the order passed by the High Court whereby the High Court under Article 226 of the Constitution of India declined to quash the FIR No.15 of 2013 of Kasaba Police Station, Kozhikode City, Kozhikode, Kerala. The High Court also declined to interfere with the order passed by the Chief Judicial Magistrate declining to de-freeze the bank accounts. The Chief Judicial Magistrate declined to de-freeze the bank accounts on the ground that the investigation was pending and it was too early for the Court to consider those aspects.
3. During the pendency of the appeals before us, we are informed that the investigation has been completed and a report under Section 173(2) Cr.P.C. has been filed before the Magistrate.
4. Mr. Dhruv Mehta, learned senior counsel appearing for the appellant submits that even going by the final report no offence is made out against the appellant and hence the entire criminal proceedings are to be quashed. It is also submitted that even going by the report of the police under Section 173(2) Cr.P.C. there is no justification in not permitting the appellant to operate the bank accounts.
5. After having heard the learned counsel on both the sides and having regard to the developments which are referred to above, we are of the view that the appellant should be given an opportunity to go back to the High Court to institute fresh proceedings either under Section 482 Cr.P.C. or under Article 226 of the Constitution of India.

6. Therefore, without expressing any opinion on the merits of the cases, we dispose of these appeals permitting the appellant to file fresh petition before the High Court under Section 482 Cr.P.C. or under Article 226 of the Constitution of India seeking quashment of the proceedings now pending before the Chief Judicial Magistrate, on the ground that the final report does not disclose any offence against the appellant under the Prize, Chits and Money Circulation Schemes (Banning) Act, 1978.

7. We make it clear that in case the appellant files such a petition, the High Court will consider the same on its own merits uninfluenced by the stand taken or the observations made in the impugned order dated 08.01.2015.

8. We also request the High Court to expedite the disposal of the petition since the bank accounts have been freezed ever since 2013.

9. Pending applications, if any, shall stand disposed of.

10. There shall be no orders as to costs.