

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

Bail Appl..No. 2997 of 2015

**CRIME NO. 233/2015 OF KOTHAMANGALAM POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER(S)/3RD ACCUSED :

**JOHNY V @ SUBASH, AGED 52 YEARS,
CHEERAKATHOTTAM HOUSE, CHERUVATOOR P.O.,
KOTHAMANGALAM.**

**BY ADVS.SRI.L.RAM MOHAN
SRI.M.AUBREY ABRAHAM ISAAC**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
KOTHAMANGALAM POLICE STATION,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.MADHUBEN

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 18-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

RAJA VIJAYARAGHAVAN.V. J

B.A. 2997 of 2015

Dated 18th June, 2015

ORDER

1. The petitioner is the 3rd accused in Crime No.233 of 2015 of the Kothamangalam police station. The said crime has been registered for the offense punishable under Sections 420, 465, 468, 471 r/w Section 34 PC.

2. The gist of the allegation against the petitioner is that a 'Ford Fiesta' Car bearing registration No. KL.44B-6669 owned by his wife was sold by the petitioner to the 1st accused, who is the Manager of Popular Vehicles, Thankalam, Kothamangalam. The said car was purchased by the defacto complainant from the 1st accused M/s. Popular Vehicles. Later, the complainant has come to understand that fake parts were used in the car, including the engine parts, and the same was sold to him by the 1st accused by suppressing the said fact. This, according to the complainant, was intentionally done in order to cheat

him. Since despite his complaint, the police did not register a crime, he had filed complaint before the learned JFMC – I , which was referred to the police based on which the crime was registered .

3. I have heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

4. The learned counsel for the petitioner has produced Annexure-I sale letter which reveals that the vehicle was sold by the petitioner herein for and on behalf of his wife to M/s. Popular Vehicles and Services Ltd., for a total sum of Rs.6,10,000/- on 20.11.2014. Later, the said vehicle was purchased by the defacto complainant from M/s. Popular Vehicle and Services Ltd. The petitioner has also invited the attention of this Court to Annexure-2 complaint which reveals that it is the 1st accused who had stated that the vehicle is free from defects and that it had not involved in any accident. It is the case of the petitioner that the vehicle was repaired by him after availing insurance and he had disposed of the same after the repair to the dealer and the

allegations raised by the complainant cannot make the petitioner liable for the offense alleged. According to the learned counsel, the offense under S. 420, 465 , 468 and 471 is not attracted in the facts of the case .

5. It is evident that the Car involved in the instant case belonged to the wife of the petitioner and the said lady is working as II Lieutenant in the defense services. The petitioner herein had sold the vehicle to M/s.Popular Vehicles for consideration and as submitted by the learned counsel, there is nothing to show that the petitioner had concealed any fact to the defacto complainant. It is also obvious from the complaint that the defacto complainant has no case that the petitioner had given any undertaking about the vehicle to him .

6. The petitioner is a person having no criminal antecedents. The facts and circumstances of the instant case and the nature of allegations persuade this Court to conclude that custodial interrogation is not warranted.

7. In the result, the application is allowed subject to the following conditions:-

1. The petitioner, in the event of arrest, shall be released on bail on his executing a bond for Rs.25,000/- (Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate concerned.

2. He shall not threaten or attempt to influence the witnesses and shall not get involved in any criminal case while on bail .

3. He shall in no event tamper or attempt to tamper with the evidence nor shall he hamper the investigation.

Violation of any of the above conditions will entitle the jurisdictional Court to cancel the bail in accordance with the law.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCS

//True Copy//
P.S.To Judge