

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Bail Appl..No. 5967 of 2015 ()

CRIME NO. 1079/2015 OF MALA POLICE STATION, TRISSUR DISTRICT

APPLICANTS/ACCUSED NOS.1 TO 3:

1. JOSE K.A., AGED 67 YEARS,
S/O.ANTONY, KANNAMPILLY HOUSE, VADAMA,
MALA, THRISSUR DISTRICT.
2. JOSE.E.C, AGED 69 YEARS,S/O.CHAKKUNNI,
ELINJIPPILLY HOUSE, KURUVILASSERY,
MALA, THRISSUR DISTRICT.
3. BABY, AGED 73 YEARS,S/O.DEVASSY,
VETTIYADAN HOUSE, KURUVILASSERY,
MALA, THRISSUR DISTRICT.

BY SRI.P.VIJAYA BHANU,SENIOR ADVOCATE
ADVS. SRI.THOMAS J.ANAKKALLUNKAL
SRI.VIPIN NARAYAN

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

***ADDL.R2 IMPEADED**

***ADDL.R2: JOHNY, S/O.ELINJIPILLY CHAKUNNY,
MELADOOR DESOM, ALATHUR VILLAGE,
CHALAKUDY TALUK.**

***ADDL.R2 IS IMPEADED AS PER ORDER DATED 02/11/2015 IN
CRL.M.A.NO.9602/2015**

**R1 BY PUBLIC PROSECUTOR SMT. T.Y.LALIZA
ADDL.R2 BY ADV. SRI.T.N.MANOJ (DEFACTO COMPLAINANT)**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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A.HARIPRASAD, J.

B.A. No.5967 of 2015

Dated this the 2nd day of November, 2015

ORDER

Application under Section 438 of the Code of Criminal Procedure.

2. Petitioners are accused 1 to 3 in Crime No.1079 of 2015 of Mala Police Station registered for offences punishable under Section 409 read with Section 34 of the Indian Penal Code.

3. A private complaint was filed against the petitioners which was forwarded for investigation under Section 156(3) of the Code of Criminal Procedure.

4. Heard the learned Senior Counsel for the petitioners, learned counsel for the defacto complainant and the learned Prosecutor.

5. Prosecution case, in short, is that the accused persons are members of Holy Grace Academy, which is a society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955. According to the defacto complainant, the first accused in the crime is the chairman of the society and the second accused is the finance director. Third accused is the Secretary of the society. Defacto complainant contended that the accused allegedly misappropriated funds

of the society and transferred it to the Holy Grace Engineering College, another society, in violation of the norms and caused a loss of ₹4,97,11,592/-.

6. After hearing the learned Senior Counsel for the petitioners and the learned counsel for the defacto complainant, it appears that it is a monetary dispute between the members of two societies. It is also submitted that a civil litigation between the parties is in the process of compromising. Prima facie the act of petitioners cannot be justified as per provisions of the Societies Registration Act. However, I do not find any necessity to have an custodial interrogation in this case. Hence pre-arrest bail is granted to the petitioners with following conditions:

i. Petitioners shall surrender before the investigating officer within a period of two weeks and submit themselves for interrogation. Thereafter each one of them shall execute a bond for ₹1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to the satisfaction of the investigating officer. In that event, they shall be released on bail in Crime No.1079 of 2015 of Mala Police Station.

ii. The sureties shall produce documents to establish their identity and solvency. The investigating officer shall not insist on the solvency certificate, but other documents can also be perused to find out whether the sureties are solvent or not.

iii. Petitioners shall appear before the investigating officer as and when directed in writing and co-operate with the investigation in the matter.

iv. They shall not influence or intimidate the witnesses.

In case of violation of any of the above conditions, the officer concerned is free to arrest the petitioners as if no order is passed.

A. HARIPRASAD, JUDGE.

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