

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Bail Appl..No. 5981 of 2015

CRIME NO. 756/2015 OF KOIPURAM POLICE STATION, PATHANAMTHITTA.

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PETITIONER(S)/ACCUSED:

1. **MANISH K.A., S/O.KUNJUMANI,
AGED 31 YEARS, ALUMTHURAYIL HOUSE,
KULASHEKHARAMANGALAM.P.O.,
KOTTAYAM DISTRICT.**
2. **SAJIN T.CHACKO AGED 32 YEARS,
KOCHITHARA HOUSE, KARRAKKAL.P.O.,
THIRUVALLA.**

BY ADV. SRI.JAMES ABRAHAM (VILAYAKATTU)

RESPONDENT(S)/COMPLAINANTS:

1. **STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
2. **SUB INSPECTOR OF POLICE,
KOIPPURAM POLICE STATION,
PATHANAMTHITTA DISTRICT.**

***ADDL. R3 IMPEADED**

3. **NIDHIN C.ABRAHAM, CHIRAPPURAATHU HOUSE,
KURIANNOOR.P.O., THIRUVALLA, PATHANAMTHITTA DISTRICT.**

**ADDL. R3 IS IMPEADED AS PER ORDER DATED 15.10.2015 IN
CRL.M.A.9780/2015 IN BA.5981/2015.**

**R1 & R2 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN
ADDL R3 BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

RAJA VIJAYARAGHAVAN.V. J

B.A.5981/2015

Dated 15th October, 2015

ORDER

1. This is a petition filed u/s 438 of the Code of Criminal Procedure.
2. Petitioners herein are accused Nos. 1 and 3 in Crime No.756 of 2015 of Koipuram police station, Pathanamthitta. The said crime has been registered u/s 120B and 320 r/w S.34 of the IPC.
3. The prosecution allegation is that with intent to cause wrongful loss to the de facto complainant, accused 1 to 3 had entered into a criminal conspiracy and obtained a sum of Rs.5,50,000/- from him on 4.3.2015 after agreeing that the tourist bus owned by the 1st petitioner will be sold to him.
4. I have heard the learned counsel appearing for the

petitioners as well as the learned Public Prosecutor and also the learned counsel appearing for the de facto complainant.

5. The learned counsel appearing for the petitioners would submit that the 1st petitioner is the registered owner of a tourist bus bearing registration No.KL-36-E-4422 and the 2nd petitioner is a vehicle broker who introduced the de facto complainant as a prospective purchaser of the bus to the 1st petitioner. The aforesaid bus was in the custody and possession of one Jayakumar and the de facto complainant had agreed to purchase the bus for a total consideration of Rs.8,50,000/-. A sum of Rs.5,50,000/- was paid to the de facto complainant to Jayakumar and a cheque for Rs.3,00,000/- was also issued. When the cheque was presented for encashment, the same was dishonoured. It was in the said circumstances that the terms of agreement entered between the parties could not be materialized. Finally, it was submitted that the allegations in the FIR would only reveal transactions of a civil nature and no

offence u/s 420 IPC is attracted. The learned counsel appearing for de facto complainant would submit that the accused persons had entered into a criminal conspiracy to cause wrongful loss to him and the acts of the petitioner and the 2nd accused would attract the offence u/s 420 IPC.

6. After having considered the rival submission, I am of the considered view that this is not a case in which custodial interrogation of the petitioners is warranted. Transactions appear to be of a civil nature and an order of pre-arrest bail can be passed in favour of the petitioners subject to the following conditions :-

i). The petitioners shall be released on bail after interrogation on their executing a bond for 25,000/- each with two solvent sureties each for the like sum if they are arrested by the Police in connection with this case.

ii). The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such

facts to the court or to any police officer.

iii). The petitioners shall make themselves available for interrogation as and when required by the investigating officer.

iv). The petitioners shall not influence or intimidate the prosecution witnesses or attempt to tamper with the evidence for the prosecution.

v). The petitioners shall not commit any similar offence while on bail.

vi). The petitioners shall not leave India without the previous permission of the jurisdictional magistrate.

vii). In case of violation of any of the above conditions, the jurisdictional magistrate shall be empowered to cancel the bail in accordance with law.

This application is allowed as above.

Sd/-
RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

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P.S. To Judge