

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Bail Appl..No. 6268 of 2014

**CRIME NO. 1142/2014 OF THOPPUMPADY POLICE STATION,
ERNAKULAM DISTRICT**

PETITIONER(S)/ACCUSED :

**JEEMOL, AGED 31 YEARS,
D/O. ACHANKUNJU, CHIRAKKAL HOUSE, CHULLICKAL,
KOCHI-682 002.**

**BY ADVS.SRI.ASHIK K.MOHAMMED ALI
SMT.SAJNA T.UMMER**

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
THOPPUMPADY POLICE STATION, THOPPUMPADY,
(THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.)**

BY PUBLIC PROSECUTOR SMT.MADHUBEN.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 17-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

RAJA VIJAYARAGHAVAN.V. J

B.A. 6268 of 2014

Dated 17th June, 2015

ORDER

1. The petitioner herein, is the accused in Crime No.1142 of 2014 of the Thoppumpadi police station which is registered for offence under Section 420 and 406 of IPC

2. The gist of the allegation is that the petitioner, who was working as a Sub Contractor and material supplier in Kuwait, for the purpose of obtaining undue gain by cheating, obtained 39,245/- Kuwait Dinars from Jayavi Trading Company, Kuwait through the defacto complainant and his friend by promising that she would supply iron rods. The further allegation is that the petitioner obtained 50,500/- Kuwait Dinar from the defacto complainant making her believe that she would supply 25,000/- tonnes of iron rods. According to the defacto complainant, the petitioner did not comply with

her promise and did not supply iron rods as assured by her. According to the complainant, the acts of the petitioner resulted in causing a loss of Rs.1,02,01,000/- to the defacto complainant and also a liability of Rs.79,27,490/- to the defacto complainant and his friend. Stating so, the petitioner had submitted a complaint before the Home Ministry of Kerala which was in turn, forwarded to the Additional Director General of Police for enquiry and necessary action. The Additional Director General of Police forwarded the said complaint to the Assistant Commissioner of Police, Mattanchery, for enquiry and report.

3. The grievance of the petitioner is that the Assistant Commissioner of Police forwarded the complaint to the Sub Inspector of Police specifically for the purpose of registering a case though no offence under Section 406 or 420 of IPC was made out. According to the learned counsel appearing for the petitioner, none of the ingredients for offence under Section 406 or 420 is made out.

4. I have heard the learned Public Prosecutor as well.

5. From the allegations in the complaint, it appears that there was a commercial transaction between the petitioner and the de-facto complainant while they were in Kuwait. The counsel for the petitioner submitted that Annexures-1 and 2 produced before this Court reveal that the de-facto complainant was in Kuwait only with a visa of a domestic servant and his passport reveals that he was engaged in Kuwait only as such. According to him, this fact is evident from the residency permit of the de-facto complainant. It was therefore, submitted that the contention in the complaint that the petitioner had received large sums of money from the de-facto complainant is therefore, not correct.

6. After hearing the petitioner and also the learned Public Prosecutor this Court is of the opinion that the allegation in the complaint, if admitted to be true, has the flavour of a commercial transaction and if the de-facto

complainant is agrieved, she will have to approach the Civil Court for realization of the amount.

7. In view of the above, the Application is allowed subject to the following conditions:-

1. The petitioner shall be released on bail, in the event of arrest, on her executing a bond for Rs.50,000/- (Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate concerned.
2. She shall surrender her passport before the learned Magistrate and in case she is not holding any passport, she shall file an affidavit stating so, within five days of her release.
3. She shall not leave India without previous permission of the jurisdictional court.
4. The petitioner shall cooperate with the investigation and shall appear before the investigating officer between 10 a.m and 11 a.m on every

Saturday for 3 months, or till the final report is filed, whichever is earlier.

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

6. She shall in no event tamper or attempt to tamper with the evidence nor shall she hamper the investigation.

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

The Bail Application is allowed as above.

Sd/-
RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//

P.S.ToJudge