IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

Crl.MC.No. 225 of 2015

AGAINST THE ORDER IN C.M.P NO.6654/2014 IN C.C NO.717/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, THAMARASSERY

PETITIONER/ACCUSED:

SREEDHARAN, AGED 60 YEARS,
S/O.CHANDU KUTTY, SREERAGAM HOUSE,
THEYYATHUM KADAVU,
EAST KIZHAKKOTH, KOZHIKODE DISTRICT.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENT/RESPONDENT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM. (CC 717/2014 OF THE JUDICIAL MAGISTRATE
OF THE 1ST CLASS-I THAMARASSERY)

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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P.UBAID, J.

Crl.M.C No.225 of 2015

Dated this the 18th day of February, 2015

<u>O R D E R</u>

The petitioner herein is the sole accused in a prosecution brought under the Kerala Money Lenders Act. Some documents were seized by the police from his premises on search. These documents include some title deeds. Some are in the name of the petitioner, and some are the prior title deeds. The petitioner filed an application under Section 451 of the Code of Criminal Procedure for interim custody of the properties seized by the police, including the amount of ₹90,000/-. The application filed by the petitioner as C.M.P No.6654/2014 was dismissed by the Judicial First Class Magistrate Court I, Thamarassery on the ground that the documents are required for trial. The said order dated 4.12.2014 is under challenge in this proceeding brought under Section 482 of the Code of Criminal Procedure.

2. On hearing both sides and on a perusal of the statement filed by the learned counsel for the petitioner with copy to the learned Public Prosecutor, I find that the prosecution will not be adversely affected if the documents are released to the petitioner on appropriate conditions. It is seen that many of the documents are the petitioner's title deeds and prior documents. If at all these documents

are required during trial, certified copies of these documents will suffice, the documents being public documents. So also, the amount involved in the case can be released on appropriate safe guards. It appears that the police could not seize any other document except the petitioner's title deeds and prior documents to prove his involvement in money lending business. In such a situation, retaining the amount of ₹90,000/- in court custody will cause loss and hardship to the petitioner. On a perusal of the entire materials I find that many of the documents are documents showing acquisition of property by the petitioner and his brother. If at all these documents are required during trial, the alleged transaction can be proved even by certified copies.

In the result, this Criminal Miscellaneous Case is allowed. The impugned order passed by the court below is hereby set aside. The properties inclusive of the documents in question and the amount of ₹90,000/- seized from the possession of the petitioner will be released to the petitioner on executing a bond with two solvent sureties for ₹50,000/- each to the satisfaction of the learned Magistrate.

P.UBAID
JUDGE

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