

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

CrI.MC.No. 2882 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN CRMP 3651/2015 of J.M.F.C., KUNNAMKULAM
CRIME NO. 516/2013 OF KUNNAMKULAM POLICE STATION , TRISSUR**

PETITIONER(S):

- 1. SUBEESH AGED 24 YEARS
S/O. MADHAVAN, PALLIVALAPPIL HOUSE
NENMANIKARA VILLAGE, NENMANIKARA-MANALI DESOM
THRISSUR DISTRICT.**
- 2. VINESH @ AKKARAPOTTAN S/O. SUDHAKARAN AGED 34 YEARS
PANIYATH HOUSE, NEAR PEEDIKAPARAMBU TEMPLE
MUPLIYAM VILLAGE
THRISSUR DISTRICT.(NOW RESIDING AT C/O. THEKKUMPILLY SHAJU
NEAR PAKKAL TEMPLE, VARANTHARAPPILLY VILLAGE
THRISSUR DISTRICT.**

**BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA**

RESPONDENT(S):

**STATE OF KERALA
REPRESENTING DEPUTY SUPERINTENDENT OF POLICE
CRIME BRANCH CID, OCW III, SUB UNIT
THRISSUR, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 2882 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1 : COPY OF ORDER DTD.6.5.2015 IN CRL.MP NO.3651/2015 OF JUDICIAL
FIRST CLASS MAGISTRATE COURT, KUNNAMKULAM.**

RESPONDENT(S)' EXHIBITS

NIL.

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///True copy///

P.S. to Judge

ALEXANDER THOMAS, J.

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Crl.M.C.No. 2882 of 2015

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Dated this the 20th day of May, 2015

O R D E R

The prayer in this Criminal Miscellaneous Case instituted under the provisions of Sec.482 of the Code of Criminal Procedure seeking invocation of this Court's inherent powers is to lift condition No.2 in Anx.A-1 bail order insisting on production of solvency certificate, as stipulated by the Judicial First Class Magistrate's Court, Kunnankulam, in Crime No.516/2013 of Kunnankulam Police Station (now re-registered as CBCID/84/CR/OCW-III/PKD/-13).

2. The court below as per the impugned Anx. A-1 order passed under Sec. 437 of the Code of Criminal Procedure granting bail to accused Nos.8 and 10 in the aforementioned crime registered for offences under Sec.398 of the IPC. The conditions are as follows:

- "1. Accused shall execute bond for Rs.50,000/- each with two solvent sureties for like sum.
2. To prove the solvency of the surety, they are directed to produce solvency certificate issued by a competent Revenue Officer.
3. Accused shall not leave the jurisdiction of Judicial First Class

Magistrate, Kunnamkulam without obtaining prior permission from that Court.

4. They shall not commit similar offence while on bail.
5. Accused shall appear before the investigating officer on all Monday in between 10.00 a.m. and 11.00 a.m. until further order."

3. Sri.C.A.Chacko, learned counsel for the petitioners submits that impugned condition No.2 stipulated by the court below at Anx. A-1 insisting on the petitioners/A-8 and A-10 to produce solvency certificate issued by the competent officer to prove the solvency of the surety, is causing unnecessary hardships and difficulties to the petitioners as there are cumbersome procedures insisted by the Revenue department for consideration of the application for grant of solvency certificate. Sri.C.A.Chacko, learned counsel for the petitioners would further submit that this Court in the decisions as in Madhu.K. v. State of Kerala reported in 2014 (1) KHC 623, Asokan v. C.I. of Police, Kadakkal Police Station reported in 2010 (1) KHC 1 and Syamkumar v. State of Kerala reported in 2010 KHC 6262, has consistently held that such condition insisting for production of solvency certificate as a pre-condition for grant of bail may not be necessary and that such condition could be lifted.

4. Heard Sri.C.A.Chacko, learned counsel for the petitioners

and the learned Public Prosecutor appearing for the respondent.

5. After having considered the facts and circumstances of the case and the decisions of this Court as in Madhu.K. v. State of Kerala reported in 2014 (1) KHC 623, Asokan v. C.I. of Police, Kadakkal Police Station, reported in 2010 (1) KHC 1 and Syamkumar v. State of Kerala reported in 2010 KHC 6262, this Court is of the considered opinion that the impugned condition No.2 at Anx.A-1 order insisting to produce solvency certificate issued by the competent Revenue officer to prove the solvency of the surety is not necessary in this case and it shall stand lifted and vacated. It is made clear that all other conditions imposed by the court below at Anx.A-1 will remain unaltered. Subject to compliance of the other conditions in Anx.A-1 order, the petitioners may be ordered to be released on bail.

With these observations and directions, the Criminal Miscellaneous Case stands finally disposed of.

sd/-
ALEXANDER THOMAS, JUDGE

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P.S. to Judge

Cr1.M.C.2882/15

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