

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ALEXANDER THOMAS

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

Crl.MC.No.3320 of 2015

**CMP NO.473/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT,
KOLENCHERRY.
CRIME NO.188/2015 OF KUNNATHUNADU POLICE STATION,ERNAKULAM.**

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PETITIONER/ACCUSED NO.1:

**MAHUL PUNCHAL,AGED 40 YEARS,
JEDEE ENGINEERING,PLOT NO.158/159,
GIDC,KABILPORE,NAVASARI,GUJARAT.**

**BY ADVS.SRI.P.SREEKUMAR
SRI.SOORAJ T.ELENJICKAL
SMT.P.M.MAZNA MANSOOR**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
THROUGH SUB INSPECTOR OF POLICE,
KUNNATHUNADUPOLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.S.HYMA.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08-06-2015, ALONG WITH CRMC.3321/2015, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No.3320 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE-1:TRUE COPY OF THE RETAIL INVOICE ISSUED FROM THE
PETITIONER'S CONCERN TO THE DEFACTO COMPLAINANT.**

**ANNEXURE-2:TRUE COPY OF THE DELIVERY CHELAN ACKNOWLEDING THE
RECEIPT OF MACHINERIES.**

**ANNEXURE-3:THE TRUE COPY OF THE FIR LODGED IN CRIME NO.188/15 OF
KUNNATHUNADU POLICE STATION.**

**ANNEXURE-4:THE TRUE COPY OF THE REMAND REPORT IN CRIME NO.188/15,
KUNNATHUNADU POLICE STATION.**

**ANNEXURE-5:THE TRUE COPY OF THE ORDER DATED 1.6.2015 PASSED BY THE
JUDICIAL FIRST CLASS MAGISTRATE COURT, KOLENCHERRY IN
CMP NO.473/2015.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

ALEXANDER THOMAS, J.

Crl.M.C No. 3320 of 2015

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Crl.M.C No.3321 of 2015

Dated this the 8th day of June, 2015.

O R D E R

Crl.M.C 3320 of 2015 is filed by the accused No.1 in Annexure 3, Crime No.188 of 2015 of the Kunnathunadu Police Station registered for the offence under Section 420 of IPC. The above said crime is initiated at the behest of the de facto complainant who is the petitioner in Crl.M.C 3321 of 2015. The petitioner in Crl.M.C No. 3320/15 is aggrieved by Annexure 5 order dated 1.6.2015 rendered by the Judicial First Class Magistrate Court, Kolenchery in CMP No.473 of 2015 in Crime No.188 of 2015 to the extent the bail order is restricted with the condition that he shall produce two solvent sureties who are from the State of Kerala having title deeds. The said accused contends that said bail order on executing a bond of Rs.

50,000/- with two solvent sureties may be enforced without the aforementioned restrictive conditions. The de facto complainant in the above said crime has filed Crl.M.C 3321 of 2015 challenging the very grant of bail as per the said order dated 1.6.2015 by contending that the Investigating Officer could not effect the arrest of the said accused and that it was only after a series of consistent measures taken by constituting a special team of Officers by the Investigating Agency that the accused could be arrested from Gujarat. The accused who is hailing from Gujarat was so arrested from Gujarat and produced before the court below, after such great difficulties, it is stated. Therefore the de facto complainant alleges in Crl.M.C No.3321 of 2015 that the order granting him bail may be set aside by this court, as otherwise if he is released on bail even with the said restrictive conditions, the chances of that, he would evade from the long arm of the law.

2. Heard. Sri. P. Sreekumar the learned counsel for the petitioner / accused in Crl.M.C. 3320 of 2015, Sri. S. Rajeev the learned counsel for the petitioner / de facto complainant in

Crl.M.C 3321 of 2015 and the learned Public Prosecutor appearing for the respondent, the State of Kerala.

3. Sri. P. Sreekumar the learned counsel for the petitioner/accused submits that the main dispute between the parties is about the non delivery of the machineries which was assured to be delivered by the accused to the de facto complainant. According to Sri. P. Sreekumar the learned counsel for the petitioner / accused, the petitioner /accused has already delivered the machineries to the de facto complainant as evident from Annexure-2, delivery chelan and what remains is only the actual installation of the machinery in the premises of the de facto complainant. Sri. S. Rajeev the learned counsel for the de facto complainant submits that the machinery has not yet been delivered as promised. Sri. P. Sreekumar the learned counsel for the petitioner/accused submits on instructions that in case the machinery is not yet delivered, the same will be delivered without any further delay and to ensure that the accused will also take all steps necessary for the installation of the machinery in the premises of the de facto complainant.

This submission made by the learned counsel for the accused is recorded. Sri. P. Sreekumar the learned counsel for the petitioner / accused further submits that the aforementioned impugned restrictive condition may be deleted and that the petitioner/accused will deposit before the court below, a cash amount of Rs.2 lakhs instead of the condition to produce title deeds of the solvent sureties and further that the accused would also surrender the passport, if any, before the court below concerned. The above said submissions are also recorded.

4. It is ordered in the interest of justice that, the impugned restrictive conditions insisting to produce the title deeds of sureties having property in Kerala stands deleted. Accordingly, it is clarified that bail may be granted to the petitioner/accused in Crl.M.C 3320 of 2015 on condition that he shall execute a bond for Rs.50,000/- and shall produce two solvent sureties for the like sum to the satisfaction of the court below concerned. The petitioner / accused will also surrender his passport, if any, before the court below concerned. In case the petitioner/accused does not have any passport, he may swear to

an affidavit before the court below concerned that he does not have any passport and that if he has any plans to take his passport or travel abroad, he will do so only after getting prior permission from the court below concerned. It is also further ordered that the petitioner/accused shall deposit a cash amount of Rs.2 lakhs before the court below concerned. Subject to these condition, the bail order could be enforced.

5. Sri. P. Sreekumar the learned counsel for the petitioner/accused on instructions from the accused submits that the accused will honestly settle all outstanding disputes with the de facto complainant on account of the disputes, relating to the delivery of the machineries and its installations. For effectuating this submission, it is ordered that the petitioner/accused who is hailing from Gujarat after securing bail shall not leave the territorial limits of the State of Kerala within a period of one month thereafter and the petitioner/ accused through his learned counsel will enter into settlement talks with the de facto complainant through his counsel. If necessary both parties could approach the Nodal Officer of the Kerala Mediation and

Conciliation centre, Ernakulam attached to this Court, upon which the Nodal Officer shall treat the case as one being referred by this Court in this proceedings. After the conclusion of such settlement proceedings, the mediator may submit report before this court in this proceedings and the learned advocates appearing on either side will be at liberty to file appropriate Crl.M.A in these Crl. miscellaneous cases so as to record the settlement of the parties.

With these observations and directions both the Crl.M.C stand disposed of.

Sd/-
ALEXANDER THOMAS
JUDGE

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