

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

CrI.MC.No. 4019 of 2015 ()

**CC.NO. 3199/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
NEYYATTINKARA (CBCID CRIME NO. 200/CR/95)**

PETITIONER/1ST ACCUSED :

**ALIYARUKUNJU
S/O.AHAMMED KANNU,
CHAMAVILA VEEDU, KOTTAPPURAM
VIZHINJAM DESOM, NEYYATTINKARA TALUK.**

BY ADV. SRI.G.SUDHEER

RESPONDENT/COMPLAINANT :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SRI. N. SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-07-2015, ALONG WITH CRL.M.C. NO. 4020/2015, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 4019 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE A. TRUE COPY OF THE FINAL REPORT IN FIR NO.200/CR/95
 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
 THIRUVANANTHAPURAM PENDING AS C.C.NO.3199/2013.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.Nos.4019 & 4020 of 2015

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Dated this the 17th day of July, 2015

ORDER

Crl.M.C.No.4019/2015:

The prayer in this Crl.M.C. is as follows:

“..... to direct the Judicial First Class Magistrate Court-II, Neyyattinkara to dispose of C.C.No. 3199/2013 on its file within a time frame as directed by this Court Honourable Court.”,

2. The petitioner herein is accused No.1 in C.C.No.3199/2013 on the file of the Judicial First Class Magistrate's Court-II, Neyyattinkara, Thiruvananthapuram district, registered for offences under Secs.406, 409, 420, 129(B) and 34 of the I.P.C. It is alleged that the accused persons, who are conducting finance business, cheated general public by not returning the cash or gold deposited/pledged with him. It is pointed out that the crime was registered in the year 1995 and that the final report was submitted in the year 1999 and that the case was re-numbered in the year 2013. That there is inordinate delay in disposing the case, etc.

3. As directed by this Court a report was furnished by the

learned Magistrate to the Registry of this Court, wherein it is stated that C.C.No.3199/2013 was re-filed from L.P.No.88/2001. A-1 and A-3 surrendered on 16.11.2013 and 29.9.2014 respectively. A-2 is still absconding in this case. The case is now posted to 29.7.2015 for producing copy of the prosecution records and charge has not been framed in this case. That there are 78 witnesses in this case and the actual pendency of cases before that court is now about 11,170 cases, out of which, 1555 cases are included in the target for the year 2015-16 for disposal. That considering the number of witnesses in C.C.No.3199/2013 and the number of cases included in the target and total pendency, it is reported by the court below that at least one year period is required for final disposal of C.C.No. 3199/2013.

4. Heard Sri.G.Sudheer, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

5. It is to be noted that the crime was registered as early as in the year 1995 and the final report/charge sheet was also said to have been filed as early as in the year 1999. Therefore, the case cannot delay any further. If A-2 is still absconding, the court below

will be at liberty to order splitting up of the case in accordance with law.

6. Taking into account the totality of the facts and circumstances of this case, it is ordered in the interest of justice that the court below shall finally dispose of C.C.No.3199/2013 without any further delay, at any rate, within an outer time limit of eight months from the date of production of a certified copy of this order.

Crl.M.C.No. 4019/2015 stands finally disposed of as above.

Crl.M.C.No. 4020/2015:

7. The prayer in this Crl.M.C. reads as follows:

“..... direct the Judicial First Class Magistrate Court-II, Neyyattinkara to dispose of C.C.No. 3200/2013 on its file within a time frame as directed by this Honourable Court.”

8. The petitioner herein is accused No.1 in C.C.No.3200/2013 on the file of the Judicial First Class Magistrate's Court-II, Neyyattinkara, Thiruvananthapuram district, registered for offences punishable under Secs.406, 409, 420, 120(B) and 34 of the I.P.C. It is alleged that the accused persons, who are conducting finance business, cheated general public by not returning the cash or gold deposited/pledged with him. It is pointed out that the crime was

registered in the year 1995 and that the final report was submitted in the year 1999 and that the case was re-numbered in the year 2013. That there is inordinate delay in disposing the case, etc.

9. As directed by this Court, a report was furnished by the learned Magistrate to the Registry of this Court, wherein it is stated that C.C.No.3200/2013 was re-filed from L.P.No.4/2004. A-1 and A-3 surrendered on 16.11.2013 and 29.9.2014 respectively. A-2 is still absconding in this case. The case is now posted to 29.7.2015 for producing copy of the prosecution records and charge has not been framed in this case. That there are 191 witnesses in this case and the actual pendency of cases before that court is now about 11,170 cases, out of which, 1555 cases are included in the target for the year 2015-16 for disposal. That considering the number of witnesses in C.C.No. 3200/2013 and the number of cases included in the target and the total pendency, it is reported by the court below that at least one-and-a-half year period is required for final disposal of C.C.No. 3200/2013.

10. Heard Sri.G.Sudheer, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

11. It is to be noted that the crime was registered as early as in the year 1995 and the final report/charge sheet was also said to have been filed as early as in the year 1999. Therefore, the case cannot delay any further. If A-2 is still absconding, the court below will be at liberty to order splitting up of the case in accordance with law.

12. Taking into account into the totality of the facts and circumstances of this case, it is ordered in the interest of justice that the court below shall finally dispose of C.C.No.3200/2013 without any further delay, at any rate, within an outer time limit of eight months from the date of production of a certified copy of this order.

Crl.M.C.No. 4020/2015 stands finally disposed of as above.

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ALEXANDER THOMAS, JUDGE
///True copy///

P.S. to Judge