

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

Crl.MC.No. 4038 of 2015 ()

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CRIME NO. 564/2011 OF BATTERY POLICE STATION, WAYANAD.**

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PETITIONER/PETITIONER:

**MUHAMMAD ASHRAFF, S/O.SAIDALAVI,
PUTHAN PEEDIKAYIL HOUSE, THRISSUR.**

**BY ADVS.SRI.A.JAYASANKAR,
SRI.C.V.MANUVILSAN,
SRI.MANU GOVIND.**

RESPONDENT/RESPONDENT:

**THE STATE OF KERALA,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN-682 031.**

BY PUBLIC PROSECUTOR SRI.GITHESH .R.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-07-2015, ALONG WITH CRL.MC. NO.4040 OF 2015 AND
CONNECTED CASES, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A1 : A TRUE PHOTOCOPY OF THE EXTRACT OF THE BAIL
ORDER PASSED BY THE LEARNED JUDICIAL FIRST CLASS
MAGISTRATE, KALYAN DATED 21-12-2012.**

**ANNEXURE A2 : A TRUE PHOTOCOPY OF THE COMMON ORDER
DATED 29-11-2011 PASSED BY THE LEARNED CHIEF
JUDICIAL MAGISTRATE, KALPETTA, WAYANAD.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.Nos.4038, 4040, 4041, 4042,
4064, 4065 & 4066 of 2015

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Dated this the 2nd day of July, 2015

O R D E R

Each of the seven Criminal Miscellaneous Cases have been filed by the same petitioner, who is accused in seven different crimes facing similar allegations of having committed the offences under Secs.406 and 420 of the I.P.C. read with Secs.3, 4, 5 and 6 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978. The petitioner was granted bail in each of these crimes as per Anx.A-2 order by the learned Chief Judicial Magistrate's Court, Kalpetta, Wayanad. Condition No. 8(b) thereof reads as follows:

“8. Accused is granted bail up-on the following conditions

a).....

b) He shall not leave the State of Kerala without prior consent of this court.”

2. It is pointed out that the petitioner is thus arrayed as accused in altogether 457 crimes including the present seven crimes for such similar allegations. Further, it is stated that one such crime is also registered in Kalyan, Bombay, in which, the Metropolitan

Judicial First Class Magistrate Court No.III, Kalyan, Bombay, has passed order as the one referred to in Anx.A-1. It is pointed out that the petitioner has to appear before that court for the purpose of trial in that case now. The apprehension of the petitioner is that in view of condition No.8(b) of para 8 of Anx.A-2 bail order granted by Chief Judicial Magistrate's Court, Kalpetta, Wayanad, there is a specific condition therein that the petitioner shall not leave the State of Kerala without prior consent of the said court. Therefore, it is prayed that this Court may issue necessary direction to the said court, which has issued A-2 order, to grant him necessary permission to leave State of Kerala as and when there is requirement to go to Bombay for attending the trial before the Magistrate's Court at Kalyan, as referred to Anx.A-1. It is in the light of these aspects that the petitioner has filed these separate Criminal Miscellaneous Cases before this Court with the prayer for direction to lift and modify the said condition imposed by the court below at Anx.A-2 to the above purpose.

4. Heard Sri.A.Jayasankar & Sri.C.V.Manuvilsan, learned Advocates appearing for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

5. The specific condition imposed in para 8(b) of Anx.A-2 bail order, which is issued by the Chief Judicial Magistrate's Court, Kalpetta, Wayanad, is that the petitioner shall not leave the State of Kerala without prior consent of the said court. Therefore, the said order itself envisages that in case the petitioner gets prior consent of the said court, then he could be permitted to leave the State of Kerala for genuine and bona fide purposes. It is admitted by the petitioner that he has not so far filed any appropriate application before the court below, which has issued Anx.A-2 bail order for seeking the prayers as sought in the present cases. Therefore, it is for the petitioner to move the Chief Judicial Magistrate's Court, Kalpetta, Wayanad, with appropriate application pointing out the bona fides and genuineness of the need to travel to Bombay by producing necessary material particulars thereof, which show that his presence is required at the said court at Bombay for the purpose of the said case. On such application being moved by the petitioner, with necessary material particulars and praying for appropriate permission to leave the State of Kerala for the limited purpose of going to Bombay for the above said purpose, then the Chief Judicial Magistrate's Court, Kalpetta, Wayanad shall consider the said

application after reasonable opportunity of being heard to the petitioner, through his counsel, if any, and the learned Public Prosecutor, without any further delay.

With these observations and directions, the Crl.M.Cs. stand finally disposed of.

sd/+
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge