

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Crl.MC.No. 3122 of 2013

AGAINST THE ORDER IN CRL.M.P NO. 2209/2013 OF THE CHIEF JUDICIAL
MAGISTRATE COURT, PATHANAMTHITTA DATED 26-06-2013

CRIME NO.564/2013 OF KOIPPURAM POLICE STATION

PETITIONER:

VALSALA GEROGE P., AGED 53 YEARS,
W/O.THOMAS K.IPPU, KALAPPURAYIL HOUSE,
NIRANAM VILLAGE & P.O., THIRUVALLA TALUK
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS/STATE:

1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM - 682 031.
2. GEORGE JOSEPH P, AGED 57 YEARS,
S/O.LATE P.C.GEORGE, PADIYICKAL MIDHUN VILLA,
PULLAD P.O., KOIPURAM VILLAGE, THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT, PIN - 689 548.

R2 BY ADV. SRI.VIVEK VARGHESE P.J.
R2 BY ADV. SRI.VARUGHESE M EASO
R2 BY ADV. SRI.K.A.MOHAMED HARIS
R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-03-2015, ALONG WITH CRMC. 3123/2013, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 3122 of 2013

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1- COPY OF AGREEMENT DTD.11.2.2010.

ANNEXURE 2- COPY OF THE COMPLAINT DTD.4.6.2013.

ANNEXURE 3- COPY OF GOVT. ORDER DATED 4.3.2011.

ANNEXURE 4- COPY OF INTERIM ORDER DATED 13.10.2011 IN W.P(C)
NO.12137/2011.

ANNEXURE 5- COPY OF THE COMMON ORDER DATED 26.6.2013.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C Nos.3122 & 3123 of 2013

Dated this the 10th day of March, 2015

O R D E R

The petitioner in these two applications is the first accused in Crime No.564/2013 of the Koippuram Police Station registered under Section 379 of the Indian Penal Code. Now there is a report that the police has dropped further action in the crime on the finding that the dispute between the parties is essentially one of civil nature. The defacto complainant in the crime is none other than the petitioner's brother. The dispute between them is essentially regarding the affairs and administration of a partnership firm. During investigation the police seized some documents including the documents of dealership and licence in the name of the defacto complainant. Pending investigation, the petitioner approached the Chief Judicial Magistrate Court, Pathanamthitta with Crl.M.P No.2207/2013 for interim custody of the documents under Section 451 of the Code of Criminal Procedure. The defacto complainant also made a rival claim as Crl.M.P No.2209/2013 for interim custody of the documents. On a consideration of the claim and the rival claim, the learned Magistrate found that the

fit person to possess the documents is the defacto complainant in whose name the dealership documents and licence actually stand. Accordingly, his claim was allowed and the petitioner's application was disallowed. In Crl.M.C No.3122/2013 the petitioner challenges the order in favor of the complainant in Crl.M.P No.2209/2013 and in Crl.M.C No.3123/2013 she challenges the order against her in Crl.M.P No.2207/2013.

2. The crime wherein the petitioner is the first accused, stands now closed. The police has dropped further action in the crime on the finding that the dispute between the parties is essentially one of civil nature. On a consideration of the materials, the learned Magistrate found that the documents in question in fact stand in the name of the defacto complainant. Those documents include the dealership licence and other connected documents. Now, when the crime itself stands closed on the finding that the dispute is essentially one of civil nature, the aggrieved party will have to approach the appropriate civil forum for proper relief. Till decision is taken by the civil court appropriately, the documents will have to continue in the possession of the defacto complainant, in whose name the documents stand. In the present circumstances, I do not find any reason or ground to interfere in the order passed by the

court below regarding interim custody of the documents. If the petitioner is aggrieved, and if she wants orders in her favour as regards administration of the firm, she will have to approach the competent civil court. Now there is a finding by the court below that all the documents in fact stand in the name of the complainant, and that is why the documents were given to him under Section 451 of the Code of Criminal Procedure. The present state of affairs will have to continue till decision is taken by the competent civil court. Without prejudice to the right of the petitioner to approach the competent civil court for relief with respect to the documents and also the to firm, including its administration and other affairs, these two proceedings can be dismissed.

In the result, these Criminal Miscellaneous Cases are dismissed without prejudice to the right of the petitioner to seek appropriate relief from the competent civil court with respect to the documents involved and also the affairs, administration and accounts of the partnership firm wherein she and her brother are partners.

**P.UBAID
JUDGE**

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