

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

Crl.MC.No. 4371 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN WP(C) 17804/2015 of HIGH COURT OF KERALA
DATED 12-06-2015

CRIME NO. 2469/2014 OF KOLLAM EAST POLICE STATION, KOLLAM

PETITIONER(S)/ACCUSED NO.3 & 4:

1. THAJUDEEN AHAMMED, AGED 42 YEARS,
S/O.NAGOOR KARIM RAWTHER, PROPRIETOR
BISMILLAH HAJI SERVICE, ANR BUILDING, KARYARA P.O.,
PUNALLUR, KOLLAM DISTRICT.
2. ABDUL LATHEEF, AGED 50 YEARS,
S/O.MOHAMMED KUNJU, PROPRIETOR,
AL-HUDA HAJJ UMRAH TRAVELS, PAIKKADA ROAD,
KOLLAM DISTRICT.

BY ADVS.SRI.S.U.NAZAR
SRI.MANSOOR.B.H.

RESPONDENT(S)/COMPLAINANT:

1. SHAJAHAN
S/O.YOUSUF KUNJU, PANDALAYIL, AIKYA NAGAR 164,
VADAKKEVILA, KOLLAM DISTRICT-691 003.
2. SUB INSPECTOR OF POLICE, KOLLAM EAST POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

R1 BY ADV.SRI.P.K.ABOOBACKER(EDAPPALLY)
R2 BY PUBLIC PROSECUTOR SMT. P.MAYA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
14-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4371 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE A1 : THE CERTIFIED COPY OF THE FIR IN CRIME NO.2469/2014
DATED 5-12-2014 ALONG WITH COMPLAINT.

ANNEXURE A2 : TRUE COPY OF THE WPC.NO.17804/2015 (WITHOUT
EXHIBITS) DATED 12-6-2015 PENDING BEFORE THE
HON'BLE HIGH COURT OF KERALA.

RESPONDENT(S) ' EXHIBITS

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// True Copy//

P.A. to Judge

ss

K. RAMAKRISHNAN, J.

Crl.M.C No.4371 of 2015

Dated this the 14th day of September, 2015

ORDER

This criminal miscellaneous case is filed by accused Nos. 3 and 4 in Crime No.2469/2014 of Kollam East police station to quash the proceedings as against them under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioners were arrayed as accused Nos.3 and 4 in Crime No.2469/2014 of Kollam East Police Station on the basis of a private complaint filed by the first respondent/ defacto-complainant before the Judicial First Class Magistrate Court-II, Kollam, which was forwarded to the police for investigation under Section 156(3) of the Code of Criminal Procedure. According to the prosecution from 2009-2012, the complainant/ accused Nos. 1 and 2 were conducting private tour operators and arranging visa for Hajj pilgrims.

It is alleged that certain amounts are due from accused Nos. 1 and 2 to the complainant. They agreed to arrange visa to Hajj pilgrims and they had received ₹5,00,000/- from the complainant and thereafter he committed default in performing the agreement and colluded with accused Nos. 2 to 4, did not arrange visa and thereby they have committed the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

3. According to the petitioners a false complaint has been filed against them in order to refuse license to the petitioners. None of the allegations are sufficient to attract the offence against them.

4. The Government Pleader filed detailed statement stating that the investigation is in the primary stage and some more persons will have to be questioned and only thereafter they can complete the investigation and file final report.

5. When the application came up for hearing today, both the counsel for the petitioners and the first respondent submitted that this petition can be disposed of directing the investigating agency to consider the objections raised by them in this writ petition and conduct proper investigation and expedite the investigation. The learned Public Prosecutor also submitted that they require some more time to complete the investigation. So under the circumstances, the petition is disposed of as follows.

The investigating officer who is conducting investigation in Crime .No.2469/2014 of Kollam East Police Station, is directed to consider the contentions raised by the petitioners in this petition while conducting the investigation and assure opportunity to them as provided under Section 41(A) of the Code of Criminal Procedure before arresting them, as provided in the decision reported in **Arnesh Kumar v. State of Bihar and Another (2014**

(3) KHC 69) and expedite investigation and file final report before the concerned court, after completing the investigation as quickly as possible.

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge

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