

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

Crl.MC.No. 4566 of 2015

**CRIME NO. 1066/2015 OF PALAKKAD TOWN SOUTH POLICE STATION ,
PALAKKAD DISTRICT**

PETITIONER(S)/ACCUSED NOS.2 AND 3 :

- 1. K.V. LAL, S/O.VASU, AGED 55 YEARS,
MEMBER OF THE PALAKKAD DISTRICT POLICE DEPARTMENT,
EMPLOYEES CO-OPERATIVE SOCIETY LTD.NO.P1021,
PALAKKAD.**
- 2. K.VIJAYAN, AGED 55 YEARS,
S/O.KANDACHAMY,
MEMBER THE PALAKKAD DISTRICT POLICE DEPARTMENT,
EMPLOYEES CO-OPERATIVE SOCIETY LTD.NO.P1021,
PALAKKAD.**

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENT(S)/STATE/COMPLAINANT :

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

*** ADDITIONAL R2 IMPEADED**

- 2. RAMACHANDRAN, AGED 58 YEARS,
S/O.ARUMUGHAN, NIRAM BHAVAN, CHITHELI,
PALAKKAD DISTRICT- 678 001.**

*** ADDITIONAL R2 IS IMPEADED AS PER ORDER DATED 02.09.2015 IN
CRL.M.A.NO.8791 OF 2015.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
ADDL.R2 BY ADVS. SRI.SANTHOSH P.PODUVAL
SMT.R.RAJITHA
SMT.VINAYA V.NAIR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A:** CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.1066/2015 DATED 24.06.2015 OF PALAKKAD TOWN SOUTH POLICE STATION.
- ANNEXURE B:** CERTIFIED COPY OF ENQUIRY REPORT TOGETHER WITH LETTER NO.45/TDR/DCB/PKD/2015 DATED 21.04.2015 SUBMITTED BY A DEPUTY SUPERINTENDENT OF POLICE, DISTRICT CRIME BRANCH, PALAKKAD TO THE DISTRICT POLICE CHIEF, PALAKKAD.
- ANNEXURE C:** TRUE COPY OF THE ORDER DATED 25.10.2014 IN CRL.M.P.NO.1570/2014 PASSED BY THE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, THRISSUR.
- ANNEXURE D:** TRUE COPY OF THE LETTER NO.1268/2015 DATED 09.07.2015 OF THE ASSISTANT REGISTRAR (GENERAL), PALAKKAD TO THE JOINT REGISTRAR (GENERAL), PALAKKAD.
- ANNEXURE E:** TRUE COPY OF THE LETTER NO.89/2015/M DATED 23.04.2015 FROM THE ASSISTANT REGISTRAR (GENERAL), PALAKKAD TO THE JOINT REGISTRAR, (GENERAL), PALAKKAD.
- ANNEXURE F:** TRUE COPY OF THE REPORT DATED 30.05.2012 SUBMITTED TO THE EXECUTIVE COMMITTEE OF THE SOCIETY BY THE PETITIONERS.
- ANNEXURE G:** TRUE COPY OF THE REPORT OF THE JOINT REGISTRAR (GENERAL), PALAKKAD TO THE CIRCLE INSPECTOR, TOWN SOUTH CIRCLE, PALAKKAD.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

.....
CRL. M.C. No.4566 of 2015
.....

Dated this the 2nd day of September, 2015

ORDER

Petitioners are A2 and A3 in Crime No.1066/15 of the Palakkad Town South Police Station registered for the offences punishable under Sections 420 and 120B of the Indian Penal Code read with Section 34 IPC.

2. The first accused is the Secretary of the Palakkad District Police Department Employees Co-operative Society. He wanted to take a housing loan and he filed an application for the same before the Committee of the said Society. The Committee has constituted a sub-committee consisting of the petitioners for reporting whether such a loan could be granted to the Secretary.

3. Annexure F shows that the petitioners have conducted an enquiry regarding similar instances with other co-operative societies and they furnished Annexure F report

to the Committee of the said society stating that on obtaining the original document, the prior document, the encumbrance certificate and the contract of equitable mortgage, a loan could be granted, even if it is to the Secretary of the Society. Further, they have observed in Annexure F that the Secretary being an employee of the Society, the instalments towards repayment of the loan could be appropriated from his monthly salary and the remaining salary need only be paid. Based on Annexure F report of the sub-committee a loan of ₹5 lakhs was granted to A1 by the committee.

4. Subsequently, it was revealed that A1 had obtained a housing loan from the LIC for putting up a building in the adjacent plot to the plot which was furnished as equitable mortgage with the said society. On coming to know about it, the Committee of the society recalled the loan and initiated disciplinary actions against A1. Immediately, the first accused repaid the entire amount with interest.

5. Heard the learned counsel for the petitioners, the learned counsel for the additional 2nd respondent and the learned Public Prosecutor.

6. Even though, the loan was repaid with interest, it cannot be said that offences will not lie against the first accused. At the same time, what has to be considered at present is with regard to the complicity of the petitioners in the matter. Petitioners have been roped in with the aid of Section 120B and Section 34 of IPC. Annexure F clearly reveals that the petitioners were engaged by the Committee of the Society as a sub-committee, and as sub-committee members, they have furnished Annexure F report. The loan was disbursed by the Committee and not by the petitioners. The role of the petitioners in the matter was the presentation of Annexure F report, and nothing more.

7. Through Annexure F report, the petitioners had reported that similar instances were there with other co-operative societies and on obtaining the documents as

aforesaid the loan could be granted even to the Secretary of a Co-operative Society. Apart from that, Annexure F report does not reveal that they have sanctioned the loan to the first accused. The loan was sanctioned by the Committee and not by the petitioners. From all these, it is evident that the continued investigation as against the petitioners will be a sheer waste of time and no purpose would be served from such investigation. At the same time, through such continued investigation, unnecessarily the petitioners have to undergo the ordeal of an investigation of a criminal case against them. Matters being so, the crime, so far it relates to the petitioners are concerned, has to be quashed.

In the result, this CrI.M.C. is allowed and Crime No.1066/2015 of the Palakkad Town South Police Station, so far as it relates to the petitioners, is hereby quashed.

Sd/-

B. KEMAL PASHA, JUDGE.

CRL.M.C.No. 4566 of 2015

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