

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

Crl.MC.No. 4684 of 2013 ()

**AGAINST THE ORDER IN CMP 4686/2013 and CMP 4687/2013 of C.J.M.,
THODUPUZHA, DATED 22.06.2013**

PETITIONER(S)/PETITIONER/DEFACTO COMPLAINANT:

**NEX.P.A., AGED 34 YEARS,
S/O ANTONY, PALLATHU HOUSE, THAMMANAM KARA,
EDAPPALLY VILLAGE, ERNAKULAM.**

BY ADV. SRI.IEANS.C.CHAMAKKALA

RESPONDENT(S)/RESPONDENTS/ACCUSED/COMPLAINANT/STATE:

- 1. SALJU KUMAR, AGED 34 YEARS,
S/O PARAMESWARAN, ONATTU HOUSE, KARIMKUNNAM P.O.,
THODUPUZHA TALUK-685 586.**
- 2. MANOJ MATHEW, AGED 31 YEARS,
S/O MATHEW, THOTTIYIL HOUSE, PURAPPUZHA P.O.,
PURAPPUZHA VILLAGE, THODUPUZHA TALUK-685 583.**
- 3. SUB INSPECTOR OF POLICE,
THODUPUZHA POLICE STATION-685 585.**
- 4. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM-682 031.**

**R1&2 BY ADV. SRI.P.CHANDY JOSEPH
R3 & R4 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20-02-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE A1: CERTIFIED COPY OF THE F.I.S**
- ANNEXURE A2: CERTIFIED COPY OF THE F.I.R**
- ANNEXURE A3: CERTIFIED COPY OF THE REMAND REPORT.**
- ANNEXURE A4: CERTIFIED COPY OF COMMON ORDER IN CMP NO.4687/13
AND 4686/13 PASSED BY THE CHIEF JUDICIAL
MAGISTRATE COURT, THODUPUZHA.**

RESPONDENT(S)' EXHIBITS

NIL

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P.A. to Judge

K. RAMAKRISHNAN, J.

Crl.M.C.No.4684 of 2013

Dated this the 20th day of February, 2015

ORDER

This is an application filed by the complainant challenging the order granting bail as per Annexure-A4 to the accused persons in Crime No.1459/2013 of Thodupuzha police station under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that he is the defacto-complainant in Crime No.1459/2013 of Thodupuzha police station registered against respondents 1 and 2 alleging offence under Section 420 read with Section 34 of the Indian Penal Code. During investigation, it was revealed that, offence under Section 204 of the Indian Penal Code was also committed and third accused was also involved. So third accused was implicated and Section 204 of the Indian Penal Code was also added. Accused Nos. 1 and 2

were arrested, who are respondents 1 and 2 herein and they were produced before the Chief Judicial Magistrate Court, Thodupuzha and they filed Crl.M.P.No.4687/2013 for granting bail and the application filed by the Deputy Director of Prosecution for custody as Crl.M.P. No.4686/2013 and that was dismissed and bail was granted to respondents 1 and 2. Further the investigation has not been properly conducted and the loss of ₹12,00,000/- was not traced out during investigation. So granting bail was challenged by the petitioner.

3. When the application came up for hearing today, the learned Public Prosecutor submitted that, the investigation has been completed and final report has been filed and it was taken on file as C.C.No.147/2013 before the Chief Judicial Magistrate Court, Thodupuzha and the accused appeared and they were released on bail and this was supported by the counsel for respondents 1 and 2 also.

The counsel for the petitioner also submitted that the above submissions may be recorded and the petition may be closed with liberty for the petitioner to move the Chief Judicial Magistrate Court, seeking further investigation if any required and that liberty need not be curtailed by disposing this petition.

4. Since final report has already been filed and the case has already been taken on file by the Chief Judicial Magistrate and thereafter the accused appeared and bail was granted by that court which order has not been challenged, the bail granted during crime merges with other order which has not been under challenge now. So the prayer in the petition has become infructuous now. However, the right of the petitioner to move the Chief Judicial Magistrate Court for further investigation if so advise is not affected by disposal of this petition by this court and if such an application is filed, it is for the Chief

Judicial Magistrate to consider and dispose of the application in accordance with law, after affording opportunity to the accused to submit their objections to the same as well.

With the above direction and observation, the petition is disposed of. Office is directed to communicate this order to the concerned court, immediately.

Sd/-
K. RAMAKRISHNAN, JUDGE

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P.A. to Judge

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