

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

Crl.MC.No. 5312 of 2014

**ORDER DATED 21-07-2014 IN CMP 4369/2014 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, NADAPURAM**
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PETITIONER(S)/PETITIONER:

**SUDEESAN K.,
MANAGER, PURAMERI SERVICE CO-OPERATIVE BANK,
PERODE BRANCH, VELLUR AMSOM, PERODE DESOM,
KOZHIKODE DISTRICT.**

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENT(S)/STATE & RESPONDENTS IN CMP:

- 1. THE STATE OF KERALA,
REP. BY THE STATION HOUSE OFFICER, NADAPURAM,
KOZHIKKODE DISTRICT, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**
- 2. CHANDRI C.,
D/O KUMARAN, CHERUVALATH HOUSE, MUDAVANTHERI,
KOZHIKODE DISTRICT - 673 505.**

R1 BY PUBLIC PROSECUTOR SRI.GITHESH R.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
20-07-2015 ALONG WITH CRL.MC.5313/2014 THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 5312 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE 1 : A TRUE COPY OF THE NOTICE ISSUED BY THE SUB INSPECTOR OF POLICE, NADAPURAM TO THE PETITIONER.

ANNEXURE 2 : A TRUE COPY OF THE ARTICLES TAKEN CUSTODY BY THE POLICE RECEIVED ON 01.07.2014.

ANNEXURE 3 : A TRUE COPY OF THE AFFIDAVIT ALONG WITH THE PETITION AND THE SCHEDULE.

ANNEXURE 4 : A CERTIFIED COPY OF THE COMMON ORDER IN CMP 4369/14 DATED 21.07.2014

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C.Nos.5312 & 5313 of 2014

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Dated this the 20th day of July, 2015

ORDER

Orders under challenge in both these Crl.M.Cs. are Annexures A4 in Crl.M.C.5312/2014 and Crl.M.C.5313/2014 whereby the interim prayers made by the respective petitioners for grant of interim custody of the articles seized in connection with the two petty crimes have been denied by the court below. The main ground is stated in paragraph 8 of the impugned Annexure-A4 common order which reads as follows:

“ So far as the banks are concerned, their claim is that ornaments were pledged by the accused. Prosecution allege that those ornaments does not belong to the accused. Therefore, the ornaments cannot be released to the banks. No doubt, the report of the police shows that accused had obtained gold from the petitioners in CMPs 4373/14 to 4378/14. But, for the time being, there is nothing before the court to ascertain as to which of the items belong to each one. In these circumstance, it is safe to keep the ornaments in the custody this court, until the prosecution is capable of identifying the real owners of each item of gold. In the result, these applications are dismissed.”

2. Heard, learned counsel for the petitioners and the learned Public Prosecutor appearing for the respondent State of Kerala. But

going through the impugned order this Court is of the considered opinion that no ground for substantial interference of the said order has been made out in the present cases. However, the court below has not granted any opportunity to these petitioners for moving the court below at the appropriate stage after the conclusion of the investigation. Whereas such opportunity has been given to the other claimants who are the de facto complainants. It is pointed out by the learned counsel for the petitioners that now the investigation is already over and the other claimants have already moved the court below with fresh applications praying for grant of interim custody. In the light of these aspects it is made clear that the petitioners will also be at liberty to approach the court below by filing appropriate applications for grant of interim custody, which the court below shall consider on merits in accordance with law. The court below will ensure that in case no orders have so far been passed on the applications filed by the other claimants and such applications are still pending, then it should be ensured that those applications and the applications that may be filed by the petitioners should be considered together, provided the petitioners move the court below with appropriate applications within two

weeks from today. With these observations and directions the impugned Annexure-A4 order stands modified accordingly.

The Crl.M.Cs. stand finally disposed of accordingly.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

