

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

Cri.MC.No. 5406 of 2014 ()

AGAINST THE ORDER/JUDGMENT IN CC 232/2009 of J.M.F.C.-III, TRIVANDRUM

PETITIONER(S):

NISAR, AGED 27 YEARS
S/O.HAMSA, KOLOTHODY HOUSE
NEAR KANDAMANGALAM JUNCTION, KOTTAPADAM VILLAGE
MANNARKKAD TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.R.O.MUHAMED SHEMEEM

RESPONDENT(S):

1. RAJESH, AGED 35 YEARS
S/O.RAMANAN, EDAKKETTUMVILA, VEEDE
MOONNALAM MURI, ADOOR VILLAGE
PATHANAMTHITTA DISTRICT. 691 523.
2. SUB INSPECTOR OF POLICE
CANTONMENT POLICE STATION
THIRUVANANTHAPURAM 695 001.
3. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.

R1 BY ADV. PUBLIC PROSECUTOR SMT.SAREENA GEORGE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE NO.1. COPY OF THE FINAL REPORT IN CC 232/09 OF JUDICIAL IST CLASS MAGISTRATE COURT 111, THIRUVANANTHAPURAM.

ANNEXURE NO.2. COPY OF THE FIR (CRIME)NO.46/2009 DATED 27.02.09 OF CANTONMENT POLICE STATION, THIRUVANANTHAPURAM.

ANNEXURE NO.3. COPY OF THE ORDER DATED 18.12.13 IN CRMC 6327/13 OF THIS HONOURABLE COURT.

ANNEXURE NO.4. COPY OF THE ORDER DATED 24.01.14 IN CMP 163/14 IN CC 232/2009 IN JUDICIAL IST CLASS MAGISTRATE COURT, THIRUVANANTHAPURAM.

ANNEXURE NO.5. COPY OF THE COMMUNICATION DATED 11.07.09 ISSUED BY THE REGIONAL PASSPORT OFFICER, MALAPPURAM.

RESPONDENT(S)' EXHIBITS

ANNEUXRE-R1(A) TRUE COPY OF THE CALL LIST OF THE MOBILE PHONE OF THE PTITIONER.

// True Copy //

PA to Judge

B. KEMAL PASHA, J.

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Crl.M.C. No.5406 of 2014 B
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Dated this the 21st day of December, 2015

ORDER

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Petitioner is the 2nd accused in CC No.232/2009 of the Judicial First Class Magistrate's Court-III, Thiruvananthapuram, which has arisen from Crime No.46/2009 of Cantonment Police Station, Thiruvananthapuram for the offences under Section 505(1) (b) read with Section 34 IPC.

2. The prosecution case is that the 1st accused in furtherance of his common intention with the petitioner, made use of the mobile phone of the petitioner and gave a telephonic message to the office of the Chief Minister of

Kerala, stating that a bomb has been planted in the Government Secretariat. The allegation is that accused No.1 used the SIM Card belongs to accused No.2.

3. The petitioner approached the court below through CMP.163/2014 seeking a discharge under Section 239 Cr.P.C. Through Annexure-4 order, the court below has dismissed the said CMP. The court below has framed charge against the petitioner under Sections 506 and 507 read with Section 34 IPC.

4. According to the learned counsel for the petitioner, the mobile phone of the petitioner was stolen by somebody and the call was originated from that mobile phone. These are matters to be considered by the court below at the stage of trial.

5. On hearing the learned counsel for the petitioner and learned Public Prosecutor, this Court is of the view that it is too early for this Court at this stage to conclude that the petitioner has not committed the offence. It is a matter

which requires evidence. The petitioner can take up the very same contentions before the court below.

With liberty to the petitioner to take up the very same contentions during trial, this CrI.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/21/12

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PA to Judge