

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

Crl.Rev.Pet.No. 26 of 2015 ()

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AGAINST THE ORDER DATED 17-10-2014 IN CC. NO.4106/2011 OF JUDICIAL
FIRST CLASS MAGISTRATE COURT, IRINJALAKUDA.**

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PETITIONER/COMPLAINANT:

**JOSEPH, S/O.I. RAPPAL,
PANIKULAM PALLIKATTIL HOUSE, VALAYANAD,
VADAKKUMKARA, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.B.SAHASRANAMAN,
SRI.T.S.HARIKUMAR,
SRI.K.JAGADEESH.**

RESPONDENTS/STATE AND ACCUSED:

- 1. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. BHARATHAN, AGED 63 YEARS,
S/O.KUMARAN, KATTIKULAM HOUSE,
KIZHUTHANI, KARALAM, THRISSUR DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI.REJI JOSEPH.
R2 BY ADVS. SRI.RAJESH CHAKYAT,
SMT.B.L.RENJU.**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 11-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONERS' ANNEXURES:

**ANNEXURE A1 COPY OF THE TRAVEL DETAILS ISSUED BY AKBAR TRAVELS
OF INDIA DATED 15/10/2014.**

**ANNEXURE A2 COPY OF THE INSURANCE POLICY TAKEN BY THE
COMPLAINANT FOR HIS TRAVEL FROM 19/10/2014 TO
27/10/2014.**

RESPONDENTS' ANNEXURES:

NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
Crl.R.P. No.26 of 2015
.....

Dated this the 11th day of June, 2015

ORDER

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A crime was registered alleging an offence under Section 420 IPC as against the 2nd respondent herein by the Kattoor police. The matter was referred. Consequently, a protest complaint was filed by the petitioner herein as complainant, alleging an offence under Section 420 IPC. The complaint was taken on file, cognizance was taken and process was issued. The respondent/accused appeared on 10.03.2014 and he was enlarged on bail. Thereafter, there were four postings, namely, 10.06.2014, 12.08.2014, 16.09.2014 and 17.10.2014. On 17.10.2014, the complainant could not appear as he wanted to make arrangements for his visit to Kuwait. An application was filed by the learned counsel for the complainant for getting his absence condoned. The court below has chosen to

dismiss the application and discharge the petitioner under Section 249 Cr.P.C.

2. Heard learned counsel for the petitioner, learned counsel for the respondent and learned Public Prosecutor.

3. On hearing all of them and on a perusal of the records, this Court is of the view that the court below ought to have granted at least one more opportunity to the petitioner to adduce evidence. The discharge of the 2nd respondent made by the court below through the impugned order has resulted in substantial miscarriage of justice. Matters being so, the impugned order is liable to be set aside. The matter is remitted to the court below for fresh disposal in accordance with law by giving one more opportunity to the petitioner to adduce evidence. The parties shall appear before the court below on 01.07.2015.

CrI.R.P. is allowed as above.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/11/06

// True Copy //

PA to Judge