

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

Crl.Rev.Pet.No. 429 of 2015 ()

(AGAINST THE ORDER DATED 3.3.2015 IN CMP NO.1042 OF 2015 IN CC NO.44
OF 1999 DATED OF THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
THIRUVANANTHAPURAM)

REVISION PETITIONERS/ACCUSED 1,3,4 & 6:

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1. SAJAN VARGHESE, S/O.LATE K.V.VARGHESE
KANJIRAKKAT HOUSE, KARAPUZHA
WARD NO.23, KOTTAYAM DISTRICT.
 2. REGI K.VARGHESE, KANJIRAKKAT HOUSE
KARAPUZHA, WARD NO.23, KOTTAYAM DISTRICT.
 3. THOMAS K. VARGHESE, KANJIRAKKAT HOUSE
KARAPUZHA, WARD NO.23, KOTTAYAM DISTRICT.
 4. ELIYAMMA VARGHESE, W/O.LATE K.V.VARGHESE,
KANJIRAKKAT HOUSE, KARAPUZHA, WARD NO.23,
KOTTAYAM DISTRICT.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
KOCHI-682 031.

BY PUBLIC PROSECUTOR SMT.SEENA RAMAKRISHNAN

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.T.RAVIKUMAR, J.

Crl.R.P.No.429 of 2015

Dated 1st April, 2015

ORDER

This revision petition is directed against the order dated 3.3.2015 in C.M.P.No.1042 of 2015 in C.C.No.44 of 1999 of the Court of Additional Chief Judicial Magistrate, Thiruvananthapuram. The revision petitioners are accused Nos.1, 3, 4 and 6 in the said calendar case. Earlier, they had approached this Court by filing Crl.M.C.No.1061 of 2000. That case was disposed of by this Court along with three other Criminal Miscellaneous Cases by a common order dated 31.5.2013. Evidently, as per the said common order this Court disposed of Crl.M.C.No.1061 of 2000 as well with specific directions. This Court permitted the petitioners to file statements/affidavits touching the aspects specifically referred to in the order within a period of one month before the concerned trial court so as to enable the court to put it to the prosecution for verification and for further action for compounding the offences, on proper petition. The petitioners filed an affidavit pursuant to the said common order before the Court of Additional Chief Judicial Magistrate, Thiruvananthapuram in C.C.No.44 of 1999. The learned Additional Chief Judicial Magistrate passed the impugned order dismissing the petition on the ground that

the petitioners had failed to present the application before the court within the time stipulated by this Court. It is stated that the application was filed belatedly. Evidently, the certified copy of the common order was received by the revision petitioners only on 3.2.2015. The date notified for their appearance to receive the notice was 10.2.2015. A perusal of the impugned order itself would reveal that the petitioners filed the affidavit before the court on 27.2.2015. In the said circumstances though the order is dated 31.5.2013 for the purpose of computing the period to see whether the petitioners had filed the affidavit within the time limit the crucial date is 3.2.2015. Evidently, in this case, the petitioners moved the application within one month from 3.2.2015. In the said circumstances, the impugned order dated 3.3.2015 is set aside. C.M.P.No.1042 of 2015 is restored into the file in C.C.No.44 of 1999 of the Court of Additional Chief Judicial Magistrate, Thiruvananthapuram and the learned Magistrate is directed to consider the same on merits in accordance with the observations in the common order. It is made clear that till such time the stay granted by this Court as per the common order will continue.

Sd/-
C.T.RAVIKUMAR
Judge

TKS