

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

Cr1.Rev.Pet.No. 1289 of 2014 ()

Cr1.M.P.No.7523/2012 IN C.C.NO.472/2008 OF JUDICIAL FIRST CLASS
MAGISTRATE-I, THRISSUR.

REVISION PETITIONER(S)/ACCUSED:

FLEMI K.R.,
W/O.N.PRAKASH, FLAT NO.E2, ATHULYA PARK
POOTHOLE P.O., THRISSUR.

BY ADVS.SRI.M.SASINDRAN
SRI.A.ARUNKUMAR

RESPONDENT(S)/STATE:-:

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

BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 10-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

A1 : COPY OF THE FIR IN CRIME NO.333/2007 OF EAST POLICE STATION, THRISSUR.

AII : COPY OF THE COMPLAINT LODGED BY THE SECRETARY-IN-CHARGE OF THE THRISSUR DISTRICT POLICE CO-OPERATIVE SOCIETY.

AIII : COPY OF THE CHARGE SHEET IN CRIME NO.333/2007 OF EAST POLICE STATION, THRISSUR.

//True copy//

P.A to Judge

STU

K.HARILAL, J.

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Crl.R.P.No.1289 of 2014

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Dated this the 10th day of June, 2015

ORDER

The revision petitioner is the accused in C.C.No.472/2008 on the files of the Judicial First Class Magistrate's Court-I, Thrissur. He stands charge sheeted for the offences punishable under Sections 409, 420 and 201 of the Indian Penal Code.

2. The prosecution case against the petitioner is that between the period 30.01.2005 and 1st week of 2007 May, the accused being the cashier in charge of the Police Co-operative society wilfully, dishonestly and fraudulently misappropriated an amount of ₹2,67,030/- by committing errors and manipulation in the computer system for wrongful gain and thereby, committed the offences alleged against him. According to the petitioner, the records and other documents sent along with the final report submitted

under Section 173(2) do not disclose the offence alleged against him. The charge submitted by the Police is groundless. On the above premises, the petitioner filed M.P.No.7523/2012 seeking discharge from prosecution. After hearing the petitioner, the court below dismissed the said application by the impugned order under challenge. The legality and propriety of the findings whereby the court below dismissed the application are under challenge in this revision petition.

3. The learned counsel for the petitioner advanced arguments assailing the findings in the order whereby the court below dismissed the application. The sum and substance of the arguments is that the court below miserably failed to discharge the jurisdiction and power envisaged under Section 239 of the Code of Criminal Procedure.

4. Going by the impugned order, it is apparent that, as rightly submitted by the learned counsel for the petitioner, the court below miserably failed to discharge the

jurisdictional power vested in the court under Section 239 of the Cr.P.C. It was incumbent upon the court below to examine the records and documents sent along with the final report to find out whether those documents and records disclose a prima facie case against the accused. But, it is seen that the court below has not looked into those documents. Moreover, the impugned order is cryptic as well as laconic.

5. Consequently, the impugned order is set aside and the matter is remitted back to the Trial Court for fresh consideration. The learned Magistrate is directed to consider the application for discharge strictly in compliance with the mandate under Section 239 of the Cr.P.C, within a period of 'three' months from today.

The revision petition is disposed of accordingly.

Sd/-
K.HARILAL, JUDGE.

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//True copy//

P.Ato Judge