

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

OP(Crl.).No.297 of 2014 (Q)

IN CRA 548/2014 of D.C. & SESSIONS COURT, ERNAKULAM

PETITIONER(S)/APPELLANT IN CRL.APPEAL 548/14 :

**FAIZAL, PUTHEMPARAMBIL HOUSE,
ERATTUPETTA.P.O., ERATTUPETTA.**

**BY ADVS.SRI.PRAVEEN K. JOY
SRI.TA.JOY**

RESPONDENT(S)/RESPONDENTS IN CRL.APPEAL 548/14 & STATE :

- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM.**
- 2. P.E.ALI, PULLICHALIL HOUSE,
MUDAVOOR P.O., MUVATTUPUZHA.**

BY GOVERNMENT PLEADER SMT.S.HYMA

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

OP(Crl.).No. 297 of 2014 (Q)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE APPEAL MEMORANDUM IN CRL.APPEAL 548/14 OF SESSIONS COURT, ERNAKULAM.**
- P2: COPY OF THE DELAY PETITION IN CRL.APPEAL 548/14 OF SESSIONS COURT, ERNAKULAM.**
- P3: COPY OF THE NOTICE DATED 12.8.2014 RECEIVED ON 10.12.2014 ISSUED BY DISTRICT COLLECTOR, UNDER ORDER IN ST 3394/2006 OF JFCM, MUVATTUPUZHA.**
- P4: COPY OF THE PETITION TO SUSPEND SENTENCE IN CRL.APPEAL 548/14 OF SESSIONS COURT, ERNAKULAM.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

ALEXANDER THOMAS, J

O.P.(Crl).No.297 of 2014

Dated this the 22nd day of May, 2015

JUDGMENT

This Original Petition(Criminal) has been filed, seeking the invocation of the jurisdiction conferred by this Court as per the provisions of Article 277 of the Constitution of India, with the following prayers.

“This Hon'ble Court may be pleased to stay all further warrant proceedings and other proceedings initiated against the petitioner in ST No.3394/06 on the files of Judicial First Class Magistrate, Muvattupuzha, and proceedings under Ext.P3, till the consideration of Ext.P4 application in Crl. Appeal 548/14 of Sessions Court, Ernakulam, during the pendency of the original petition (Crl), in the interest of justice.”

2. This Court has passed order dated 16.12.2014 has called for a report from the court below.

3. Pursuant to the above directions, the First Additional Sessions Court, Ernakulam, as per letter dated 1.1.2015 reported to the registry of this court that, Criminal Appeal No.548/2014 was filed by the petitioner

herein before the said Sessions court on 4.12.2014 with the delay of 1230 days and that notice has been issued for condonation of delay and appeal was posted to 19.1.2015.

4. Sri.Praveen K. Joy, learned Counsel for the petitioner submits that now notice has been issued by the court below on aforesaid appeal and other applications to the respondent therein (defacto complainant in S.T.No.3394/06 on the file of the Chief Judicial First Class Magistrate Court, Muvattupuzha). It is further prayed that this Court may pass necessary orders so as to safeguard the interest of the petitioner, so as not to face further coercive proceedings in execution of the impugned sentence imposed by the court below in the above case and that such protective orders may be issued until consideration of Ext.P2 delay condonation application filed in Crl.A.No.548/2014 and Ext.P4 interim application for suspension of the impugned sentence.

5. Having heard the learned counsel for the petitioner and taking into consideration the totality of the facts and circumstances of the case, it is ordered in the

interest of justice that after completion of the service of notice to the respondent in the Criminal Appeal, the court below (the appellate court concerned) will endeavour to pass orders on Ext.P2 delay condonation application and Ext.P4 interim application for suspension of the impugned sentence, without much delay. Until orders are passed on Ext.P2 and Ext.P4 applications as aforesaid, it is ordered further in the interest of justice that all further coercive proceedings in pursuant to the pending warrant issued against the petitioner in execution of the impugned sentence, will kept in abeyance. It is made clear that this order is issued only as a temporary protective measure in the interest of justice, in the aforesaid facts and circumstances of the case and the appellate court concerned will pass orders on Exts.P2 and P4 applications independently, untrammelled by any of the observations in this Court.

In these observations and directions this O.P (Crl) stands finally disposed of.

**ALEXANDER THOMAS
JUDGE**

VS