

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

Tr.P(Crl.).No. 63 of 2015

CC 437/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KADAKKAL.
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PETITIONER:

**AJITH KUMAR, AGED 45 YEARS,
RESIDING AT VYSHAKHIL, BENGLAMKUNNU,
NILAMEL MURI, NILAMEL VILLAGE,
KOLLAM DISTRICT AND NOW RESIDING AT
SASIMANDIRAM, PERIAMNGAMALA,
THETTIVILA, KALLIYOOR, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.SYAM J SAM

RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SRI.N.SURESH

**THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 02-07-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:**

mbr/

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APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1 : THE TRUE COPY OF THE CHARGE SHEET FILED BY THE
RESPONDENT BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT, KADAKKAL.

ANNEXURE A2 : THE TRUE COPY OF THE CASE STATUS IN WP(C)9235/2015,
OBTAINED FROM HIGH COURT REGISTRY.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Dated this the 2nd day of July, 2015.

ORDER

The prayer in this Transfer Petition is for a direction to transfer the calendar case C.C.No.437/2015 now pending on the file of the Judicial First Class Magistrate Court, Kadakkal, Kollam District to any other Magistrate Court outside Kollam Sessions Division. The offence alleged against the petitioner in the impugned Crime No.162/2008 of Chadayamangalam Police Station is for offence under Sec.420 r/w 34 IPC. The gist of the prosecution case is that the petitioner was the proprietor of a financing concern by name 'Sneha Bankers' and it could not repay the deposits to be paid to the depositors and creditors had made several complaints and even persons who have taken gold loan from the bank could repaid their amount. According to the petitioner, the creditors assembled in front of the bank and acted in violent manner and also interrupted the banking business and that such people

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assaulted the petitioner and his staff. That earlier, after the submission of the Final Report/Charge Sheet, calendar case was originally instituted on the file of the Judicial First Class Magistrate Court-II, Kottarakkara and later, on establishment of a new Magistrate Court at Kadakkal in the same District, the case was transferred to that Court at Kadakkal. That most of the creditors are natives of Kadakkal and Nilamel areas and that the petitioner and his family members are residing at Thiruvananthapuram to avoid themselves from the threat of creditors whenever he goes to Kadakkal. It is in the light of these aspects that the petitioner prays that the present C.C.No.437/2015 may be ordered to be transferred from the court at Kadakkal to any other court outside Kollam Sessions Division.

2. Heard Sri.Syam J. Sam, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent-State of Kerala.

3. To a specific query to the learned Public Prosecutor as to whether prosecution has any serious objection in considering the

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prayer of the petitioner, it was fairly submitted by the learned Public Prosecutor that in view of the apprehensions raised by the petitioner, this Court may consider transferring the case from Kadakkal to any other nearby Magistrate Court in Kollam rather than ordering to a court outside Kollam Sessions Division. Learned Public Prosecutor also submitted that the calendar case was originally instituted at Kottarakkara in Kollam and later transferred to Kadakkal in view of the establishment of a new court. To this submission, the learned counsel for the petitioner submitted that the petitioner would be fully satisfied if the case is transferred at least to Kottarakkara, if the prayer for transferring the case to outside Kollam Sessions Division is not being allowed by this Court. In view of these submissions made and taking into account the totality of the facts and circumstances of this case and considering the apprehension raised by the petitioner and the crucial fact that the case was originally instituted at Kottarakkara in Kollam District, it is ordered in the interest of justice that C.C.No.437/2015 on the file of the Judicial First Class Magistrate Court, Kadakkal should be

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transferred to Judicial First Class Magistrate Court-II, Kottarakkara where the case was originally instituted. The Magistrate Court at Kadakkal shall, within ten days from the date of receipt of a certified copy of this order, transfer and transmit the entire case file in relation to C.C.No.437/2015 to the Judicial First Class Magistrate Court-II, Kottarakkara. On receipt of such case papers from the Court at Kadakkal, the Judicial First Class Magistrate Court-II, Kottarakkara will issue notice the accused and the prosecutor for appearance on a day for proceeding with further steps.

With these observations and directions, the Transfer Petition (Crl) stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-