IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

FRIDAY, THE 28TH DAY OF MARCH 2025 / 7TH CHAITHRA, 1947

CRL.MC NO. 210 OF 2020

AGAINST THE ORDER/JUDGMENT DATED IN CC NO.526 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,PAYYANNUR

PETITIONERS:

DEEPU
AGED 36 YEARS
S/O.O.K.PRABHAKARAN, O.K.HOUSE, KOTTY, PAYYANNUR, KANNUR DISTRICT.

BY ADV M.V.AMARESAN

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN- 682031.

2 **GLORY,**
AGED 72 YEARS
W/O.STEPHEN, PLAVILA VADAKATHIL HOUSE, KURISUMUKKU, RAMANTHALI P.O., KANNUR DISTRICT, PIN- 670308.

BY ADVS.
KALEESWARAM RAJ
THULASI K. RAJ(K/000814/2015)
CHINNU MARIA ANTONY(K/3363/2022)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

G. GIRISH., J.

Crl.M.C. No. 210 of 2020

Dated this the 28th day of March, 2025

JUDGMENT

No representation from the petitioner. This petition is filed by the 2nd accused in C.C. No.526/2019 on the files of the Judicial First Class Magistrate Court, Payyannur, a case which arose out of a protest complaint filed by the 2nd respondent, for quashing the proceedings in the said case. The main ground stated is that the petitioner was abroad on the day when the alleged incident is said to have taken place.

2. Heard learned counsel for the 2nd respondent and the learned Public Prosecutor representing the State of Kerala.

3. The petitioner is facing prosecution in C.C.No. 526/2019 for the commission of offence under Sections 447,341,323 and 506(ii) read with Section 34 IPC. Obviously, the procedures before the learned Magistrate are under Chapter XIX of the Code of Criminal Procedure under Part B dealing with the cases instituted otherwise than on police

report. The petitioner could very well raise the contention of alibi, which he had raised in this petition, before the Trial Court at the appropriate stage, when the learned Magistrate proceeds with the framing of charges. It is not possible for this Court to invoke the inherent powers under Section 482 Cr.P.C., and embark upon an enquiry as to whether the petitioner was abroad at the relevant time, when the offence alleged took place. Therefore, the prayer in this petition to quash the proceedings in C.C. No. 526/2019 on the files of the Judicial First Class Magistrate Court, Payyannur, cannot be allowed.

In the result, the petition stands dismissed without prejudice to the right of the petitioner to raise all the contentions before the Trial Court at the appropriate stage.

Sd/-
G. GIRISH ,
JUDGE

sjb/28.03.25

APPENDIX OF CRL.MC 210/2020

PETITIONER ANNEXURES

ANNEXURE 1	**TRUE COPY OF THE PRIVATE COMPLAINT DATED 02.08.2018 FILED BY THE 2ND RESPONDENT AGAINST THE PETITIONER BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE, PAYYANUR AS C.M.P. 5703/2018.**
ANNEXURE 1(A)	**TRUE COPY OF ORDER DATED 22.05.2019 IN C.M.P 5703/2018 IN C.C. 526/2019 PASSED BY THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE, PAYYANUR.**
ANNEXURE 2	**TRUE COPY OF COMPLAINT DATED 24.10.2017 FILED BY THE 2ND RESPONDENT AGAINST THE PETITIONER BEFORE THE PAYYANUR POLICE AS CMP 7957/2017.**
ANNEXURE 3	**TRUE COPY OF REFERENCE NOTICE DATED 20.07.2018 UNDER SECTION 173 OF CR.PC, FILED BY PAYYANNUR POLICE IN ANNEXURE 2.**
ANNEXURE 4	**TRUE COPY OF RELEVANT PAGE OF THE PASSPORT OF THE PETITIONER.**