IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 5TH DAY OF MARCH 2025/14TH PHALGUNA, 1946

CRL.MC NO. 408 OF 2021

CRIME NO.424/2017 OF KANNAVAM POLICE STATION, KANNUR

AGAINST THE ORDER/JUDGMENT IN CC NO.870 OF 2018 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,KUTHUPARAMBA

PETITIONER:

P.M. SHAJI,
AGED 51 YEARS
S/O. NARAYANAN,
PALERI HOUSE,
DHARMADOM (P.O.),
VIA THALASSERY,
KANNUR DISTRICT,
PIN-670106

BY ADVS.
M.M.DEEPA
P.MAYA

RESPONDENTS:

1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,

ERNAKULAM, PIN- 682031

2 STATION HOUSE OFFICER,
KANNAVAM POLICE STATION,
KANNAVAM, KANNUR DISTRICT-670650

3 SAVEEN SUNDER P.,
RANGE FOREST OFFICER, NACHAD RANGE,
THRISSUR FOREST DIVISION CENTRAL CIRCLE,
THRISSUR, PIN-680 554 (THEN DEPOT OFFICER,
GOVERNMENT TIMBER DEPOT KANNAVAM)

BY SR .PP.PUSHPALATHA M.K.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Petitioner is the 1st accused in Crime No.424 of 2017, registered at the Kannavam Police Station for the offence under Section 420 r/w Section 34 of IPC, now pending as C.C No.870 of 2018 on the files of the Judicial Magistrate of First Class, Kuthuparamba.

2. The crime is registered on the allegation that, during 03.09.2016 to 05.09.2016, while the petitioner was working as Section Forest Officer in the Kannoth Timber Depot, the original, duplicate, and triplicate of pass No.82 went missing from the Timber Release Passbook for the period 14.06.2016 to 19.10.2016. It was alleged that the petitioner with the aid of accused No.2, who was then working as Forest Watcher, had torn off pass No.82 to cause problems for some other officials. The crime was registered on the basis of a statement filed by the then Depot Officer of Kannoth Timber Depot. Later, the Depot Officer gave an additional statement that on 02.06.2017 he had been informed by the petitioner that the second accused had

entrusted the pass with the Baby Bakery in Kuthuparamba. Accordingly, a person was deputed and the missing pass was collected from the bakery.

3. Learned counsel for the petitioner contends that, except the petitioner being the Section Forest Officer at the relevant point of time, there is absolutely no evidence to connect him with the alleged offence. It is submitted that the petitioner was exonerated in the departmental enquiry conducted with respect to the same allegations, finding the prosecution to have failed in proving the charge against him. It is the contention of the learned counsel that, even if the allegations are accepted to be true, the ingredients for attracting the offence under Section 420 are not made out. Moreover, having got back the missing pass, continued prosecution of the petitioner is an abuse of process of court.

4. Learned Public Prosecutor submitted that there are allegations to the effect that, the petitioner along with the 2nd accused, is responsible for removing the pass from the passbook and the pass was recovered based on information given by the

petitioner, which itself proves his complicity in the crime.

5. After hearing the learned counsel on either side and on careful scrutiny of the materials on record, I find substantial merit in the contentions urged on behalf of the petitioner. Merely because the petitioner was working as a Section Forest Officer and was responsible for releasing the pass, he cannot be implicated for the missing pass. None of the prosecution witnesses has stated that he had seen the petitioner remove the pass from the passbook. Being so, petitioner cannot be prosecuted based on assumptions alone. Exoneration of the petitioner in the disciplinary proceedings and receipt of the missing pass are factors indicative of his innocence.

For the aforementioned reasons, the Crl.M.C. is allowed. Annexure D final report and all further proceedings in C.C No.870 of 2018 on the files of the Judicial Magistrate of First Class, as against the petitioner, Kuthuparamba is quashed.

Sd/-

V.G.ARUN

JUDGE

SPV

APPENDIX OF CRL.MC 408/2021

PETITIONER'S ANNEXURES

ANNEXURE A	**TRUE COPY OF THE COMPLAINT DATED 08-0-32017 SUBMITTED BY VISWAN K V BEFORE THE DIVISIONAL FOREST OFFICER, TIMBER SALES DIVISION, KOZHIKODE ALONG WITH PHOTOCOPY OF THE LOST PASS**
ANNEXURE B	**THE CERTIFIED COPY OF THE FIR DATED 17-08-2017 IN CRIME NO. 424/2017 OF KANNAVAM POLICE STATION, KANNUR DISTRICT**
ANNEXURE C	**TRUE COPY OF THE ENQUIRY REPORT DATED NIL ISSUED BY THE ASSISTANT CONSERVATOR OF FOREST (SIP) NORTH ZONE, KANNUR**
ANNEXURE D	**THE CEERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 424/2017 OF KANNAVAM POLICE STATION, KANNUR DISTRICT.**

RESPONDENTS' ANNEXURES: NIL

//TRUE COPY//

PA TO JUDGE