

**Sabhpathi Vs. State of Kerala**

**Sabhpathi Vs. State of Kerala**

**SooperKanoon Citation :** [sooperkanoon.com/1096149](http://sooperkanoon.com/1096149)

**Court :** Kerala

**Decided On :** Oct-31-2013

**Judge :** Honourable Mr.Justice Harun-UI-Rashid

**Appellant :** Sabhpathi

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID THURSDAY, THE 31<sup>ST</sup> DAY OF OCTOBER 2013 9<sup>TH</sup> KARTHIKA, 1935 CrI.MC.No. 5023 of 2013 ()  
----- CRIME NO. 1481/2012 OF PANANGAD POLICE STATION , ERNAKULAM PETITIONER(S)/ACCUSED 1 TO 5  
----- 1. SABHAPATHI, AGED 30 YEARS, S/O.VELU, NADU THERU, KATANDI KUPPAM, KADAMPULIOOR POST, CUDDALORE DISTRICT, TAMILNADU.

2. EZHIL RAJA, AGED 42 YEARS, S/O.CHAKARVARTHI, KILAKKU THERU, KATTANDI KUPPAM, KADAMPULIOOR POST, CUDDALORE DISTRICT, TAMILNADU.

3. S.SEKAR, AGED 30 YEARS, S/O.SABANAYAGAR, MERKU THERU, KADAMPULIOOR POST CUDDALORE DISTRICT, TAMILNADU.

4. THANGAMONI AGED27YEARS, S/O.RAJAGOPAL, MERKU THERU, KADAMPULIOOR POST, CUDDALORE DISTRICT, TAMILNADU.

5. SELVAM, AGED22YEARS, S/O.ELAVUMALAI, MERKU THERU, KADAMPULIOOR POST, CUDDALORE DISTRICT, TAMILNADU BY ADV. SRI.T.PRASAD RESPONDENT(S): ----- STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE PANAGAD POLICE STATION, ERNAKULAM DISTRICT REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM-682 031. BY PUBLIC PROSECUTOR SMT S HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON3110-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No. 5023 of 2013 () ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE-A1.TRUE COPY OF THE COMMON

ORDER

DATED83/2013 IN CRL. MC NO.359/2013 AND CRL. MC NO.435/2013 OF SESSIONS COURT, ERNAKULAM. ANNEXURE-A2.TRUE COPY OF THE

ORDER

IN CRL. MC NO.1783/2013 DATED37/2013 OF THIS HONOURABLE COURT. RESPONDENT(S)' EXHIBITS: NIL ----- TRUE COPY P.A TO JUDGE LSN HARUN-UL-RASHID, J.

----- Crl. M.C No.5023 of 2013 ----- Dated this the 31st day of October, 2013.

ORDER

The petitioners are accused Nos. 1 to 5 in Crime No. 1481/2013 of Panangad Police Station. The offence alleged are punishable under Sections 302, 397, 449 and 511 of IPC. The petitioners are in custody for the past 11 months. It is submitted that the investigation in the above crime is almost completed. The petitioners filed application for Regular Bail. The Sessions Court vide common order dated 08.03.2013 in Crl.M.C No. 359/2013 and 435/2013 granted bail

subject to strict conditions. Annexure A1 is the copy of the said order. As per Annexure A1 order, the Court directed that the petitioners will be released on bail on their executing bond with two solvent sureties for Rs. 50,000/- each to the satisfaction of the learned Magistrate having committal jurisdiction. The court below imposed the condition that the surety shall be permanent residents of this revenue district having landed properties and they shall be really solvent with solvency certificates to the extent of Rs.50,000/- to the satisfaction of the learned Magistrate. Another condition imposed is that the petitioner shall not leave the revenue district after the release without previous permission of the CrI. M.C No.5023 of 2013 2 committal trial court, as the case may be, till the trial of the case is over.

2. The petitioners being the permanent residents of Tamil Nadu are coolie workers. The petitioners are unable to comply with furnish sureties who are having permanent residents of this revenue district and are having landed properties. It is pointed out that, they being a permanent residents of Tamil Nadu will not get sureties from this revenue district and thus it has become impossible to execute the bail bonds. In such circumstance the petitioners remains in judicial custody unable to comply with the directions issued by the learned Sessions Judge.

3. It is submitted that the petitioners are now ready to bring two sureties from their native place. The petitioners submitted the application for modification of the order in CrI.M.C. No.1783/2013 seeking permission to the petitioners to bring sureties from their native place. This court passed an order permitting the petitioner to bring sureties from Palakkad Districts subject to further condition of executing a bank guarantee of Rs.2,00,000/- for each petitioners. Copy of the order in CrI.M.C178313 is produced as Annexure A2.

4. The grievance of the petitioner is that they are not in a position of comply with the condition imposed in Annexure A2 CrI. M.C No.5023 of 2013 3 order. Being coolie workers they are unable to furnish bank guarantee of Rs.2,00,000/- each which will come to Rs.10,00,000/- all together for the five petitioners. As now petitioners are able to bring two sureties from Aluva, Ernakulam District, who are having solvency certificate and tax receipts. Difficulty now pointed out is that the

original order passed by the court below modified by the Annexure-A2 order passed by this Court. In this circumstance, petitioners approach this Court for passing appropriate orders. After hearing the learned counsel for the petitioners and the learned Public Prosecutor, this Court is of the view that the petitioners are entitled to the reliefs sought for in this CrI.M.C. Having regard to the facts and circumstances and taking into consideration the changed circumstances, is granted permission to the petitioners to execute bail bond in terms of Annexure-A1 common order in CrI.M.C35913 and 435/13 passed by the Sessions Court,Ernakulam. CrI.M.C is disposed of as above. HARUN-UL-RASHID, JUDGE.  
Isn

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**