

Mary Vs. the District Collector

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Court : Kerala

Decided On : Dec-03-2013

Judge : Honourable Mr.Justice K.M.Joseph

Appellant : Mary

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH TUESDAY, THE 3D DAY OF DECEMBER 2013 12TH AGRAHAYANA, 1935 Bail Appl..No. 7953 of 2013 (A) ----- [CRIME NO. 913/2013 OF KOTTARAKKARA POLICE STATION , KOLLAM] ----- PETITIONER/ACCUSED: ----- M.G.VIJAYAKUMAR, AGED 60 YEARS, MAVANAVILA HOUSE, MAILAM P.O., KOTTARAKKARA, KOLLAM. BY ADVS.SRI.A.JAYASANKAR, SRI.SUNDARAM GOVIND, SMT.A.K.PREETHA, SRI.MANU GOVIND, SRI.JOPHY POTHEEN KANDANKARY. RESPONDENT/STATE: ----- STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031. BY PUBLIC PROSECUTOR SMT. LALIZA. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 0312-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Prv. THOMAS P. JOSEPH, J.

----- Dated this the 3rd day of December 2013

ORDER

Petitioner is the accused in Crime No.913 of 2013 of the Kottarakkara Police station for the offences punishable under Secs.465, 468, 471 and 420 read with Sec.34 of the Indian Penal Code, apprehends arrest and has filed the application.

2. Learned Public Prosecutor, while opposing the application has submitted that the petitioner worked as Secretary of the Co-operative bank concerned from 1984 to November, 2011 and was suspended two times during that period. Allegation is that Rs.93,55,263/- (Rupees ninety three lakhs fifty five thousand two hundred and sixty three only) belonging to the bank was misappropriated by creating forged vouchers and other documents. The depositors were not paid interest due to them. On the other hand, petitioner made fixed deposits in the name of his wife, children and relatives and excess interest was given to those depositors. A further allegation is that the petitioner transferred fixed deposit Bail Appl. No.7953 of 2013 2 in the name of one Narayanapilla in favour of one Paily Pillai who was not in existence then.

3. Learned counsel submits that the petitioner was interrogated on three occasions. It is submitted that departmental proceeding was initiated against the petitioner and there was an enquiry as provided under Sec.65 of the Co-operative Societies Act. That enquiry resulted in a surcharge order under Sec.68 of the said Act. The enquiry was vitiated by non compliance of statutory formalities. Hence the petitioner preferred appeal to the government. By Annexure III order, the government set aside the order and directed fresh enquiry. It is submitted that the complaint to the Police is based on the report of enquiry. In the circumstance, the complaint cannot be sustained.

4. Departmental proceeding is one thing and criminal prosecution is entirely different. At least, at this stage, I cannot say that the complaint or registration of the case is illegal for the reason of the departmental enquiry being pending. The question is whether the Bail Appl. No.7953 of 2013 3 petitioner could be granted

pre-arrest bail? 5. I do not forget that the learned counsel for the petitioner has an argument that the petitioner has already retired and custodial interrogation is not required. In considering grant of anticipatory bail, the question for decision is not custodial interrogation alone. Other relevant facts such as nature of allegation, its seriousness, nature of investigation required to be done are also to be looked into.

6. Having regard to the circumstances, I am not inclined to think that this is a fit case for the grant of anticipatory bail. As such, request for anticipatory bail cannot be allowed. The application is dismissed. Sd/- THOMAS P. JOSEPH JUDGE NS

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