

Mini Charles vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-19-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/476/2023

Appellant : Mini Charles

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 19TH DAY OF JANUARY 2023 / 29TH POUSHA,
1944 CRL.MC NO. 476 OF 2023 PETITIONER/ACCUSED NOS 1 TO 4:
1 MINI CHARLES, AGED 45 YEARS W/O. CHARLES, G3, BLOCK 1,
V.B. GARDENS, 2 ALICE K.K., AGED 50 YEARS D/O. KURIAKOSE,
B2, BLOCK 1, V.B. GARDENS, 3 SHAIBI JOHN, AGED 40 YEARS W/O.
TOMY, C1, BLOCK 4, V.B. GARDENS, PULIKKILLAM WEST ROAD,
CHEMBUMUKKU, KAKKANAD P.O., ERNAKULAM DISTRICT., PIN -
682030 4 CHARLES JOSEPH, AGED 55 YEARS S/O. JOSEPH, G3,
BLOCK 1, V.B. GARDENS, BY ADV BOBBY RAPHEAL.C
RESPONDENT/STATE AND DEFACTO COMPLAINANT: 1 STATE OF

KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031 2 ANEESH THOMAS AGED 33 YEARS S/O. THOMAS, KANKIRATHINKAL HOUSE, NEAR PADIYOOR CHURCH, ARIYACODE BHAGOM, PADIYOOR VILLAGE, KANNUR DISTRICT, NOW RESIDING AT FLAT NO. F4, BLOCK-4, V.B. GARDENS, CHEMBUMUKKU, VAZHAKKALA VILLAGE, ERNAKULAM DISTRICT, PIN - 682021 BY ADV PUBLIC PROSECUTOR ADV M P PRASHNATH - PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19.01.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused Nos. 1 to 4 in Crime No. registered on the basis of a complaint submitted by the 2 nd respondent herein, alleging offences punishable under Sections 406 and 420 of the Indian Penal Code.

2. The prosecution case is as follows: The 2 nd

respondent/defacto complainant is the Secretary of V.B.Gardens Flat Residence Association, Chembumukku. During the year 2014 to 2020, the petitioners were the office bearers of the said Association. It was alleged that, with the intention to cheat the members of the Association and to extort money, electrical maintenance work of the said flat was entrusted to one Ruban Chacko for Rs.1,45,750/- , but using forged documents, the expenses were falsely shown as Rs.2,64,000/- . In support of the same claim they produced the forged documents before the Committee, thereby misappropriated an amount of Rs. 1,15,750/-. Annexure-1 is the FIR registered by the police and this CrI.M.C. is filed for quashing all further proceedings pursuant to the same

3. Heard, Smt.Bobby Rapheal, the learned Counsel appearing for the petitioners and Sri.M.P.Prashanth, the learned Public Prosecutor appearing for the State.

4. The contention put forward by the learned Counsel for

the petitioners is that, the case against the petitioners is falsely foisted. The main contention raised by the learned counsel for the petitioners is based on Annexure-5 which is a statement of the electrical contractor named Mr. Rubal Chacko, which was recorded by the Special Branch Ernakulam as part of an inquiry. It is pointed out that, in the said statement the said the electrical contractor had stated that, total amount due to him was Rs.2,79,000/- and out of it he had already received Rs.2,64,000/-. Based on the same, it is contented that, the petitioners cannot be implicated for the offences alleging misappropriation of the amounts specified in the FIR.

5. However, after going through the materials placed on

record, I am of the view that all these matters are to be the subject matter of investigation, and since the challenge is against the F.I.R. registered, I am of the view that, the same cannot be considered by this Court in a proceeding under Section 482 of Cr.P.C. It is a well settled possession of law that as far as the question of interference in the investigation conducted by the police is concerned, the same can be done only in rarest of rare cases. For the purpose of considering the question as to whether any interference is to be made, the crucial aspect to be looked into is whether the information received from the defacto complainant contains any materials for making out any cognizable offence.

6. On going through the records, I am of the view that,

this is not a fit case in which the interference can be made at this stage of investigation. In such circumstances, I do not find any ground to entertain this Crl.M.C. and accordingly, it is dismissed without prejudice to the rights and contentions of the petitioners. However, it is discernible from the records that, the crime has been registered during the month of April, 2022, and therefore it is only proper that the investigation officer completes the investigation, and file the final report as expeditiously as possible. Sd/- ZIYAD RAHMAN A.A. JUDGE rpk
APPENDIX OF CRL.MC 476/2023 PETITIONER ANNEXURES Annexure1
CERTIFIED COPY OF FIR IN CRIME NO. ERNAKULAM DISTRICT . Annexure2
TRUE COPY OF THE LAWYER'S NOTICE DATED PETITIONER TO THE
DEFACTO COMPLAINANT Annexure3 TRUE COPY OF THE E-MAIL

COMPLAINT DATED THE EMAIL I.D. OF SHYBY TOMY TO THE CHIEF MINISTER OF KERALA Annexure4 TRUE COPY OF THE E-MAIL RECEIPT DATED PETITIONERS TO THE CHIEF MINISTER OF KERALA WITH RESPECT TO THE DISSATISFACTION OF ENQUIRY Annexure5 TRUE COPY OF THE REPLY DATED 5.1.2023

ISSUED BY DEPUTY COMMISSIONER OF POLICE (ADMINISTRATION AND CRIME), STATE PUBLIC INFORMATION OFFICER, OFFICE OF THE COMMISSIONER OF POLICE, KOCHI CITY, ALONG WITH THE STATEMENT OF THE RUBAN CHACKO UNDER RIGHT TO INFORMATION ACT

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