

Jose Thomas vs State of Kerala

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Court : Kerala

Decided On : Dec-22-2023

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Bail Appl./5656/2023

Appellant : Jose Thomas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945
BAIL APPL. NO. 5646 OF 2023 CRIME NO.205/2023 OF TOWN EAST
POLICE STATION, THRISSUR PETITIONER/ACCUSED NO.2: JOSE
THOMAS, AGED 40 YEARS S/O V.M.THOMAS,FLAT NO.1, 29/401/1,
DAMODAR APARTMENT,KUNNATHU LANE, NEAR THIRUVAMBADY
TEMPLE, MOONUUKUTY, THRISSUR, PIN - 680001 C.S.MANU DILU
JOSEPH T.B.SIVAPRASAD MANJU E.R. ANANDHU SATHEESH
ALINT JOSEPH C.A.ANUPAMAN C.Y.VIJAY KUMAR
RESPONDENT/COMPLAINANT & STATE: 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF

KERALA, PIN - 682031 *2 GILBERT LOURDURAJ JAMES , RESIDENT OF 16, VIVEKANANDA NAGAR COIMBATORE - 641005. (IS IMPEADED AS ADDL.R2 AS PER ORDER IN CRL.M.ANO.1/2023 DATED 22.12.2023) THOMAS J.ANAKKALLUNKAL ANUPA ANNA JOSE KANDOTH JAYARAMAN S. LITTY PETER MELBA MARY SANTHOSH BY SMT.T.V.NEEMA, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.12.2023, ALONG WITH Bail Appl..5651/2023, 5656/2023 & CONNECTED CASES, THE COURT ON 22.12.2023 DELIVERED THE FOLLOWING: -2-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945 BAIL APPL. NO. 5651 OF 2023 CRIME NO.196/2023 OF TOWN EAST POLICE STATION, THRISSUR PETITIONER/ACCUSED NO.4: JOSE THOMAS, AGED 40 YEARS, S/O V.M.THOMAS FLAT NO.1, 29/401/1,DAMODAR APARTMENT, KUNNATHU LANE, NEAR THIRUVAMBADY TEMPLE MOONUKKUTY, THRISSUR, PIN - 680001 C.S.MANU DILU JOSEPH T.B.SIVAPRASAD C.Y.VIJAY KUMAR MANJU E.R. C.A.ANUPAMAN ANANDHU SATHEESH ALINT JOSEPH RESPONDENT/COMPLAINANT & STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 *2 GILBERT LOURDURAJ JAMES, RESIDENT OF 16, VIVEKANANDA NAGAR COIMBATORE - 641005. (IS IMPEADED AS ADDL.R2 AS PER

ORDER IN CRL.M.ANO.1/2023 DATED 22.12.2023)

THOMAS J ANAKKALLUNKAL ANUPA ANNA JOSE KANDOTH JAYARAMAN S. LITTY PETER MELBA MARY SANTHOSH SRI.M.C.ASHI, PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.12.2023, ALONG WITH Bail Appl..5646/2023 & CONNECTED CASES, THE COURT ON 22.12.2023 DELIVERED THE FOLLOWING: -3-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945 BAIL APPL. NO. 5656 OF 2023 CRIME NO.206/2023 OF TOWN EAST POLICE STATION, THRISSUR PETITIONER/ACCUSED NO.4: JOSE THOMAS, AGED 40 YEARS S/O V.M.THOMAS FLAT NO.1, 29/401/1, DAMODAR APARTMENT, KUNNATHU LANE, NEAR THIRUVAMBADY TEMPLE MOONUKKUTY, THRISSUR, PIN - 680001 C.S.MANU ANANDHU SATHEESH T.B.SIVAPRASAD C.Y.VIJAY KUMAR DILU JOSEPH C.A.ANUPAMAN MANJU E.R. ALINT JOSEPH RESPONDENT/COMPLAINANT & STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 *2 GILBERT LOURDURAJ JAMES RESIDENT OF 16, VIVEKANANDA NAGAR COIMBATORE - 641005. (IS IMPLEADED AS ADDL.R2 AS PER ORDER IN CRL.M.ANO.1/2023 DATED 22.12.2023) THOMAS J ANAKKALLUNKAL MELBA MARY SANTHOSH ANUPA ANNA JOSE KANDOTH JAYARAMAN S. LITTY PETER SMT.T.V.NEEMA, SR PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.12.2023, ALONG WITH Bail Appl..5646/2023 AND CONNECTED CASES, THE COURT ON 22.12.2023 DELIVERED THE FOLLOWING: -4-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945 BAIL APPL. NO. 5659 OF 2023 CRIME NO.162/2023 OF TOWN EAST POLICE STATION, THRISSUR PETITIONER/ACCUSED NO.3: JOSE THOMAS, AGED 40 YEARS S/O V.M.THOMAS FLAT NO.1, 29/401/1, DAMODAR APARTMENT, KUNNATHU LANE, NEAR THIRUVAMBADY TEMPLE MOONUKKUTY, THRISSUR, PIN - 680001 C.S.MANU ALINT JOSEPH C.Y.VIJAY KUMAR C.A.ANUPAMAN MANJU E.R. DILU JOSEPH T.B.SIVAPRASAD ANANDHU SATHEESH RESPONDENT/COMPLAINANT & STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN -

682031 *2 GILBERT LOURDURAJ JAMES RESIDENT OF 16, VIVEKANANDA NAGAR, COIMBATORE - 641005. (IS IMPEADED AS ADDL.R2 AS PER ORDER IN CRL.M.ANO.1/2023 DATED 22.12.2023) THOMAS J ANAKKALLUNKAL ANUPA ANNA JOSE KANDOTH JAYARAMAN S. LITTY PETER MELBA MARY SANTHOSH SMT.T.V.NEEMA, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.12.2023, ALONG WITH Bail Appl..5646/2023 AND CONNECTED CASES, THE COURT ON 22.12.2023 DELIVERED THE FOLLOWING: -5-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P. FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945 BAIL APPL. NO. 5668 OF 2023 CRIME NO.195/2023 OF TOWN EAST POLICE STATION, THRISSUR PETITIONER/ACCUSED NO.4: JOSE THOMAS, AGED 40 YEARS S/O V.M.THOMAS FLAT NO.1, 29/401/1, DAMODAR APARTMENT, KUNNATHU LANE, NEAR THIRUVAMBADY TEMPLE MOONUKKUTY, THRISSUR, PIN - 680001 C.S.MANU C.A.ANUPAMAN ANANDHU SATHEESH ALINT JOSEPH DILU JOSEPH T.B.SIVAPRASAD C.Y.VIJAY KUMAR MANJU E.R. RESPONDENT/COMPLAINANT & STATE: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 *2 GILBERT LOURDURAJ JAMES, RESIDENT OF 16, VIVEKANANDA NAGAR COIMBATORE - 641005. (IS IMPEADED AS ADDL.R2 AS PER ORDER IN CRL.M.ANO.1/2023 DATED 22.12.2023) THOMAS J ANAKKALLUNKAL ANUPA ANNA JOSE KANDOTH JAYARAMAN S. LITTY PETER MELBA MARY SANTHOSH SMT.T.V.NEEMA, SR.PP THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21.12.2023, ALONG WITH Bail Appl..5646/2023 AND CONNECTED CASES, THE COURT ON 22.12.2023 DELIVERED THE FOLLOWING: -6- MOHAMMED NIAS C.P.J BA No. 5646,5651, 5656, 5659 & 5668 of 2023 Dated this the 22nd day of December, 2023

ORDER

The common petitioner in B.A.No.5646/2023, 5651/2023, 5656/2023, Station, Thrissur, seeks the relief of pre-arrest bail. In Crime No.206/2023, the petitioner is accused No.4; in Crime No.205/2023, the petitioner is accused No.2; in Crime No.162/2023, the petitioner is accused No.3; in Crime No.196/2023, the petitioner is the 4th accused, while the petitioner the 4th accused in Crime No.195/2023.

2. In Crime No.205/2023, the prosecution alleges the commission of

offences punishable under Sections 406, 420 and 120 B r/w 34 of the Indian Penal Code (IPC for short hereinafter). The prosecution case is that accused 1 to 9 in this case hatched conspiracy to make unlawful enrichment and to make corresponding loss to the defacto complainant and thereby collected Rs.1.94 Crores on 02.11.2020 with an offer to give dividends. The further allegation is that as part of the conspiracy, the accused herein introduced a business proposal of the 6th accused under the name PRIMEROGLOBAL FIN CORP, CBE, and collected money on that premise. -7-

3. In Crime No.206/2023, the allegation is the same, and Rs.2.2 crores is

the amount alleged to be misappropriated by the accused. In the said case, the prosecution alleges the commission of offences punishable under Section 120(B), 465, 468, 471, 420 r/w 34 of IPC.

4. In Crime No.162/2023, the allegation is that accused Nos. 1 to 3

hatched a criminal conspiracy and handed over fake purchase orders to the defacto complainant and induced the defacto complainant to advance Rs.1,21,25,000/- (Rupees One Crore Twenty-One Lakhs Twenty-Five Thousand only) to the accused and the accused cheated the defacto complainant and misappropriated the amount. In the said case, the prosecution alleges the commission of offences punishable under Sections 420, 465, 462, 471 and 120(b) r/w 34 of IPC.

5. In Crime No.195/2023, the amount involved therein is Rs.2 crores (Rupees Two Crores only), and in Crime No.196/2023, the amount involved is Rs.55 lakhs. There is a similarity in the allegations against the petitioners.

6. The learned counsel for the petitioner submits that he is a

businessman engaged in distributing Cinematographic films. The defacto complainant is a money lender based out of Coimbatore. He does his business in Kerala through A1, one Avinesh Pushkaran. There were some financial transactions between the petitioner and the defacto complainant, and also directly and through Avinesh, and when some dispute arose between them, the petitioner requested for settlement of accounts for which the petitioner -8- and Avinesh were amenable, and they demanded Rs.10 crores towards settlement of accounts. The petitioner had also filed a suit as OS No.242/2022 for a decree for the settlement of accounts between the petitioner, the defacto complainant and Avinesh. The defacto complainant had become enmity after filing the suit, and it is only to wreak vengeance that the aforementioned five complainants were filed.

7. The learned counsel appearing for the de facto complainant and the

learned Public Prosecutor opposed the application and submitted that a proper investigation, including custodial interrogation, is required to reveal the truth. The learned counsel for the defacto complainant and the learned Public Prosecutor pointed out that the accused nos. 1 to 9 had hatched a conspiracy, collected deposits, and misappropriated their entire money. This Court, in BA Nos. 876 and 886 of 2023 and in B.A. No.8908/2023 and connected cases considered the applications for anticipatory bail application of the other similarly placed accused and, while rejecting the same, found that the transaction included crores of rupees, and thus the arrest and custodial interrogation was needed to unearth the details regarding the way the money was dealt with and where it was siphoned. In such a case, relief of anticipatory bail will stall the investigation. Though the Sessions Court had granted anticipatory bail to the 1st accused, the same was stayed by this Court.

8. Considering the rival submissions and also noticing the prosecution

case, that accused 1 to 9, in this case, hatched a conspiracy to make unlawful enrichment and to make a corresponding loss to the defacto complainant and -9- thereby collected a huge amount with an offer to give a dividend. The further

allegation is that the accused herein introduced the business proposal of the 6th accused under the name PRIMEROGLOBAL FIN CORP, CBE, and collected money on that premise as well. The contention of the petitioner is that he has no role in collecting the money and that A1 alone was responsible cannot be accepted. As found by this Court earlier, a proper investigation is required to find out the collection of deposits, the alleged misappropriation, and where the money is parked. The same can be achieved only through a proper investigation. In such circumstances, I am not inclined to consider the request for anticipatory bail as it will affect a proper investigation. Accordingly, these applications are dismissed.

MOHAMMED NIAS C.P., JUDGE dlk/21.12.2023 -10- APPENDIX OF BAIL APPL. 5651/2023 PETITIONER'S ANNEXURES Annexure A-1 TRUE COPY OF THE FIR IN CRIME NO. 196 OF 2023 OF THRISSUR EAST POLICE STATION, THRISSUR CITY Annexure A-2 TRUE COPY OF THE PLAINT IN O.S NO. 242 OF

2022 FILED BY THE PETITIONER BEFORE THE HON'BLE SUB COURT, ERNAKULAM EXCLUDING THE DOCUMENTS SUBMITTED ALONG WITH THE PLAINT

RESPONDENTS ANNEXURES Annexure R2A Copy of the Order by the Hon'ble High Court of Kerala dated 02.03.2023 in CrI M.C No East Police Station, Thrissur City Annexure R2B Copy of the Interim Order vacating 'not to arrest' A4, in WP(CrI)85 /2023 by the Hon'ble High Court of Kerala dated 06.07.2023 Annexure R2C Copy of the Bail Dismissal Order in CrI M.C District and Sessions Judge, Thrissur -11- APPENDIX OF BAIL APPL. 5656/2023 PETITIONER'S ANNEXURES Annexure A-1 TRUE COPY OF THE FIR IN CRIME NO. 206 OF 2023 OF THRISSUR EAST POLICE STATION, THRISSUR CITY Annexure A-2 TRUE COPY OF THE PLAINT IN O.S NO. 242 OF

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RESPONDENTS ANNEXURES Annexure R2A Copy of the order in CrI.MC No.1793/2023 in crime no.206/2023 of Thrissur East Police Station dated 02.03.2023 Annexure R2B Copy of the interim order in WP(CrI) 85/2023 vacating

not to arrest A4 dated 06.07.2023 by the High Court of Kerala Annexure R2C Copy of the bail dismissal order in BA No 21.03.2023 Annexure R2D Copy of the bail dismissal order in CrI.MC District and Sessions Judge, Thrissur -12- APPENDIX OF BAIL APPL. 5659/2023 PETITIONER'S ANNEXURES Annexure A-1 TRUE COPY OF THE FIR IN CRIME NO. 162 OF 2023 OF THRISSUR EAST POLICE STATION, THRISSUR CITY Annexure2 TRUE COPY OF THE PLAINT IN O.S NO. 242 OF

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Annexure R2B Copy of the interim order vacating not to arrest A4 in WP(CrI) 85/2023 by the Honble High Court of Kerala dated 06.07.2023 -13- APPENDIX OF BAIL APPL. 5668/2023 PETITIONER'S ANNEXURES Annexure A-1 TRUE COPY OF THE FIR IN CRIME NO. 195 OF 2023 DATED 20-1-2023 OF THRISSUR EAST POLICE STATION, THRISSUR CITY Annexure A-2 TRUE COPY OF THE PLAINT IN O.S NO. 242 OF

2022 DATED 28-11-2022 FILED BEFORE THE HON'BLE SUB COURT, ERNAKULAM EXCLUDING THE DOCUMENTS SUBMITTED ALONG WITH THE PLAINT RESPONDENTS ANNEXURES Annexure R2A Copy of the order in CrI.MC No 1779/2023 in crime no.195/2023 of Thrissur East Police Station by the Honble High Court of Kerala dated 02.03.2023

Annexure R2B Copy of the interim order in WP(CrI) 85/2023 by the Honble High Court of Kerala vacating not to arrest accused no.4 dated 06.07.2023 -14- APPENDIX OF BAIL APPL. 5646/2023 PETITIONER'S ANNEXURES Annexure A-1 TRUE COPY OF THE FIR IN CRIME NO. 205 OF 2023 OF THRISSUR EAST POLICE STATION, THRISSUR CITY Annexure A-2 TRUE COPY OF THE PLAINT IN O.S NO. 242 OF

2022 FILED BY THE PETITIONER BEFORE THE HON'BLE SUB COURT, ERNAKULAM EXCLUDING THE DOCUMENTS SUBMITTED ALONG WITH THE PLAINT RESPONDENTS ANNEXURES Annexure R2A Copy of the order in CrI.MC No 1794/2023 in Crime No 205/2023 of Thrissur East Police Station by the Honble High Court of Kerala dated 02-03-2023 Annexure R2B Copy of the interim order vacating not to arrest A2 in WP(CrI) 85/2023 by the Honble High Court of Kerala dated 06.07.2023 Annexure R2C Copy of the Bail Dismissal Order in B.A No dated 21.03.2023

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