

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

WEDNESDAY, THE 13TH DAY OF FEBRUARY 2013/24TH MAGHA 1934

Crl.MC.No. 927 of 2012

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AGAINST THE ORDER/JUDGMENT IN CMP.5566/2011 of C.J.M.,KOLLAM  
CRIME NO. 988/2010 OF KOLLAM WEST POLICE STATION , KOLLAM

PETITIONER(S)/PETITIONER:  
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HARRIS, AGED 26 YEARS,  
S/O.SHAJAHAN, HARRIS MANZIL, KARIKODE CHERY,  
MANGAD VILLAGE, KOLLAM.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENT/RESPONDENT:  
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STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY RAJESH VIJAYAN, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13-02-2013,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

AS

**APPENDIX**

**PETITIONER(S) ANNEXURES:**

- ANNEXURE-A:** A TRUE COPY OF THE FIR IN CRIME.988/2010 OF KOLLAM WEST POLICE STATION.
- ANNEXURE-B:** A TRUE CPY OF THE APPLICATION (CMP.4787/2011)OF CJM COURT,KOLLAM.
- ANNEXURE-C:** A TRUE COPY OF THE REPORT FILED BY THE RESPONDENT IN CMP.4787/2011 OF CJM COURT,KOLLAM.
- ANNEXURE-D:** TRUE COPY OF THE ORDER DATED 25.6.2011 IN CMP.4787/2011 OF CJM COURT,KOLLAM.
- ANNEXURE-E:** TRUE COPY OF THE APPLICATION (CMP 5566/2011)OF CJM COURT, KOLLAM.
- ANNEXURE-F:** A TRUE COPY OF THE ORDER DATED 26.7.2011 IN CMP.5566/2011 OF CJM COURT,KOLLAM.

**RESPONDENTS' EXHIBITS: NIL**

**/TRUE COPY/**

**P.A.TO JUDGE**

**AS**

**C.T.RAVIKUMAR,J.**

**CrI.M.C.No. 927 of 2012**

**Dated this the 13<sup>th</sup> day of February, 2013**

**ORDER**

The petitioner is the sole accused in Crime No.988/2010 of Kollam West Police Station registered alleging commission of offences punishable under Sections 420, 465, 468, 471 and 506(i) of the IPC. The gist of the allegation is that the petitioner was conducting an institution namely 'Lab Rise Institute of Paramedical Technology', and it advertised to have due recognition from NCVT and the Government. It is alleged that the petitioner had issued various bogus degree certificates to students on completion of their studies in that institution. During the course of investigation the police had seized various articles like Printer, Monitor, CPU of computers and an amount of Rs.40,000/- from the petitioner and the articles and money were produced before the Chief Judicial Magistrate Court, Kollam. Thereafter, the petitioner filed C.M.P.No.5566/2011 (Annexure-E) seeking release of the amount of Rs.40,000/- seized from the petitioner. That petition was rejected as per Annexure-F order. In

fact, the petitioner had earlier filed C.M.P.No.4787/2011 (Annexure-B) under Section 451 of the Code of Criminal Procedure. That application was rejected as per Annexure-D order dated 25.06.2011. The prayer in that petition was to return the amount of Rs.40,000/- and HP Printer, LG Monitor , Onida Monitor, Wipro CPU, Samsung CPU, Intel CPU etc. Upon finding that returning those articles to the interim custody of the petitioner would adversely affect the investigation the court rejected the prayer made in C.M.P.No.4787/2011 as per Annexure-D order. It is thereafter that Annexure-E application for return of Rs.40,000/- was filed and that was rejected as per Annexure-F order. This petition has been filed with the prayers to set aside Annexures-D and F and also to allow Annexures-B and E petitions as prayed for.

2. I have heard the learned counsel for the petitioner and also the learned Public Prosecutor.

3. It is to be noted that as per order dated 12.04.2012 this Court passed an interim order to release the amount of Rs.40,000/- seized by the Investigating Officer in connection with the aforesaid crime. Thus, in fact, this Court allowed the prayer made by the petitioner in Annexure-E and the impact of

Annexure-F order was nullified. In other words the grievances against Annexure-F order no more survives for consideration. The prayer in Annexure-B petition for return of Rs.40,000/- and the order in Annexure-D to the extent it rejects the said prayer also do not survive for consideration, in the circumstances. Evidently, a learned Judge of this Court passed the interim order for returning the amount of Rs.40,000/- unconditionally. Now, I will consider the prayer to set aside Annexure-D order inasmuch as it pertains to the request for returning the HP Printer, LG Monitor, Onida Monitor, Wipro CPU, Samsung CPU, Intel CPU etc. Those articles were seized by the Investigating Officer under mahazar as they were suspected to have used for creating bogus certificates issued to many students who completed their studies from the petitioner's institution namely 'Lab Rise Institute of Paramedical Technology'. Obviously, the prayer for handing over to the interim custody of the petitioner was resisted, in the said circumstances and also based on the possibility of tempering them and the apprehension of erasure or deletion of necessary details presently available in those articles. Considering the serious nature of the allegations made against the petitioner and the necessity of keeping those articles suspectedly used for

making bogus certificates and seized from the petitioner I am of the view that it cannot be said that custody of those articles with the court is no more required. In fact, it is very much required. Further, I am of the view that it is only appropriate to take expedient steps to recover necessary details and datas encoded there. In the circumstances, the contentions raised by the learned Public Prosecutor for resisting the prayers of the petitioner, on the aforesaid grounds, are well founded. The long and short of the discussion is that I am in perfect agreement with the view expressed by the learned Magistrate that those articles if given to the interim custody of the petitioner, would adversely affect the investigation. In fact, handing over those articles to the interim custody of the petitioner at this stage, will impede a successful prosecution, as well. Annexure-D order cannot be said to be illegal or against law. In that view of the matter I do not find any reason at all to interfere with Annexure-D order passed by the learned Magistrate. In the said circumstances this Criminal.M.C. is partly allowed. Annexure-F order is set aside if the amount of Rs.40,000/- has not already been released to the petitioner in the light of the interim order dated 12.4.2012 it shall be returned forthwith in the light of the interim order and the

challenge against Annexure-D to the extent it pertains to the other articles fails and accordingly it is rejected. The Crl.M.C to the extent it challenges Annexure-D order to the aforesaid extent stands dismissed.

**Sd/-**

**C.T.RAVIKUMAR,JUDGE.**

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