

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 18TH DAY OF JANUARY 2024 / 28TH POUSHA, 1945

CRL.MC NO. 11062 OF 2023

CRIME NO.0410/2023 OF ERAVIPURAM POLICE STATION, Kollam

PETITIONER/S:

- 1 ANZAR AZIZ
AGED 55 YEARS
S/O P A AZIZ, PUTHENPURA VEEDU, BHARATH NAGAR,
VADAKKEVILA PO, KOLLAM DISTRICT, PIN - 691010
- 2 SAITHOON BEEVI
AGED 59 YEARS
D/O MUHAMMED HANEEFA, KANJIYIL PURAYIDAM, VADAKKEVILA
PO, KOLLAM DISTRICT, PIN - 691010
- 3 NOUSHAD E
AGED 55 YEARS
S/O ESMAYIL KUNJU, KITTANTAZHIKOM, VADAKKEVILA PO
KOLLAM DISTRICT, PIN - 691010
- 4 S AHAMMEDKOYA
AGED 86 YEARS
S/O SHAHUL HAMEED, KOLLANTAZHIKATHU VEEDU, MANAKKADU,
VADAKKEVILA PO, VADAKKEVILA PO KOLLAM DISTRICT, PIN -
691010
- 5 SHAJITHA NIZAR
AGED 51 YEARS
D/O SHAHUL HAMEED LEBBA, THITTUMKARA VEEDU, AYATHIL
NAGAR- 185, AYATHIL PO, KOLLAM DISTRICT,, PIN - 691021
- 6 BINDHU MADHUSOODHANAN
AGED 50 YEARS
D/O RAMACHANDRAN PILLAI, MADHU NIVAS, KOLLOORVILA
NAGAR- 56, ERAVIPURAM PO, KOLLAM DISTRICT, PIN - 691010
- 7 SADDATH HABEEB
AGED 50 YEARS
S/O HABEEB, MADATHILAZHIKOM, VADAKKEVILA PO, KOLLAM
DISTRICT, PIN - 691010
- 8 ANVARDEEN. E
AGED 54 YEARS
S/O EBRAHIMKUTTY, CHANIKKAL THEKKATHIL, AYATHIL PO,
KOLLAM DISTRICT, PIN - 691010
- 9 SURESH BABU
AGED 54 YEARS

- S/O KUTTAN, POONTHOTU KUNNATHU VEEDU AYATHIL PO, KOLLAM DISTRICT, PIN - 691021
- 10 ANOOP KUMAR B
AGED 62 YEARS
S/O BHARATHAN, MANALIL VEEDU, MUNDAKKAL PO THEKKEVILA, KOLLAM DISTRICT, PIN - 691010
- 11 MANACCAD SALIM
AGED 49 YEARS
S/O ABDUL BASHIR, FOUSIYA & FATHIMA MANZIL AZAD NAGAR-177A, VADAKKEVILA PO KOLLAM DISTRICT, PIN - 691010
- 12 SANIA P S
AGED 53 YEARS
W/O MURUKESAN, YAVANIKA, ERAVIPURAM PO, KOLLAM DISTRICT, PIN - 691011
BY ADVS.
ARUN CHANDRAN
D.SOMASUNDARAM

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031
- 2 THE INSPECTOR STATION HOUSE OFFICER
ERAVIPURAM POLICE STATION, ERAVIPURAM POST OFFICE, KOLLAM DISTRICT, PIN - 691011
- 3 THE DETECTIVE INSPECTOR OF POLICE
ECONOMIC OFFENCES WING, CRIME BRANCH, KOLLAM AND PATHANAMTHITTA UNIT, KOLLAM DISTRICT, PIN - 691001

OTHER PRESENT:

SRI. M.C ASHI (PP)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18.01.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

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Crl.M.C.No.11062 of 2023

Dated this the 18th day of January 2024

ORDER

Petitioners are accused 1 to 10, 12 and 13 in Crime No.410 on the files of the Judicial First Class Magistrate Court-II, Kollam. They seek to quash the FIR in Crime No.410/2023 registered against them before the Eravipuram Police Station.

2. According to the prosecution, the accused, who are committee members and Secretary of the Kollurvila Service Co-operative Bank had committed criminal breach of trust and cheating after making unlawful gain to themselves and unlawful loss to the bank by acting contrary to the guidelines and regulations and conferring benefit of additional interest to various depositors to the extent of Rs.42,10,150/- and also released loans in violation of the bye laws to various persons causing a loss of more than 6,67,00,000/- to the bank and thereby committed the offences alleged.

3. Sri.Arun Chandran, learned Counsel for the petitioner contended that the entire prosecution allegations are false and the petitioners are being targeted without any fault on their part. It was also submitted that petitioners are innocent and the investigation is due to malafides, without any material on records to substantiate such

allegation.

4. Sri.M.C.Ashi, learned Public Prosecutor, on the other hand submitted that the investigation is only at the initial stage and that after registering the FIR with Eravipuram Police Station, the same has been transferred to the Crime Branch as Crime No.2758/2023, and is pending investigation.

5. The allegations against the petitioners are serious in nature. The bank is alleged to have sustained a loss of several crores. The complaint is initiated at the behest of the Joint Director of the Co-operative Audit Department. The allegations in the FIR if admitted, certainly indicate commission of the offences alleged. At this stage of the investigation, it is too premature to arrive at a conclusion that the offences are not even made out.

6. Further, interfering with an investigation ought to be resorted to only in exceptional circumstances. None of the circumstances warranting such an interference and narrated in the decision in ***State of Haryana v. Bhajanlal 1992 sup (1) SCC 335*** are made out in the instant case.

7. Though the learned Counsel for the petitioner had referred to various awards obtained by the bank, which are produced as Annexure A6 and A7 series, I am prima facie of the view that those awards by itself cannot wipe away the allegations of criminal breach of trust and cheating. However, those are all matters for investigation to consider. When the investigation is at the initial stages, it is not proper to invoke

the jurisdiction under Section 482 Cr.P.C to entrench into the powers of the Investigating Officer.

Accordingly, I do not find any merit in this Crl.M.C. and the same is dismissed.

**BECHU KURIAN THOMAS
JUDGE**

jm/

APPENDIX OF CRL.MC 11062/2023

PETITIONER ANNEXURES

Annexure 1	CERTIFIED COPY OF THE FIRST INFORMATION REPORT BEARING NUMBER 0410 OF 2023, LODGED BY THE INSPECTOR STATION HOUSE OFFICER OF THE ERAVIPURAM POLICE STATION OF KOLLAM DISTRICT, DATED 03.03.2023.
Annexure 2	CERTIFIED COPY OF THE FIR, RE- REGISTERED AS CRIME NO. 2758/ 2023/ CB/ EOW/ KLM & PTA/ R/ 2023, ON 05.08.2023.
Annexure 3	TRUE COPY OF THE REPORT SUBMITTED BY THE 3RD RESPONDENT UNIT DETECTIVE INSPECTOR, BEFORE THE COURT OF JUDICIAL MAGISTRATE OF FIRST-CLASS MAGISTRATE COURT- II, KOLLAM OF KOLLAM DISTRICT, BEARING DATE 10.10.2023.
Annexure 4	TRUE COPY OF THE CIRCULAR NUMBER 09/ 2023, BEARING DATE 20.02.2023, ISSUED BY THE REGISTRAR OF COOPERATIVE SOCIETIES, STATE OF KERALA.
Annexure 5	TRUE COPY OF THE ACKNOWLEDGMENTS ISSUED BY THE BANK ON 23.11.2023 ON THE LOAN ACCOUNT OF MR PRADEEP KUMAR AND MS SHYNI.
Annexure 6	TRUE COPY OF THE AWARD(ARC NO. 2098/2022) DATED 08.04.2022, AGAINST MR ZULFIKAR.
Annexure 6 [A]	TRUE COPY OF THE AWARD(ARC NO. 2099/2022) DATED 08.04.2022, AGAINST MR SIRAJUDDEEN.
Annexure 6 [B]	TRUE COPY OF THE AWARD(ARC NO.2100 /2022) DATED 08.04.2022, AGAINST MS JASMIN.
Annexure 6 [C]	TRUE COPY OF THE AWARD(ARC NO.2101 /2022) DATED 08.04.2022, AGAINST MS. SAHEERA.
Annexure 6 [D]	TRUE COPY OF THE AWARD(ARC NO.2112 /2022) DATED 08.04.2022, AGAINST MR SHAMNAD.
Annexure 6 [E]	TRUE COPY OF THE AWARD(ARC NO.2103 /2022) DATED 08.04.2022, AGAINST MR SIBI.
Annexure 6 [F]	TRUE COPY OF THE AWARD (ARC NO.2104 /2022)DATED 08.04.2022, AGAINST MS THANSEELA.
Annexure 6 [G]	TRUE COPY OF THE AWARD(ARC NO.2105 /2022) DATED 08.04.2022, AGAINST MR RAHEEM.
Annexure 6 [H]	TRUE COPY OF THE AWARD (ARC NO.2106 /2022)DATED 08.04.2022, AGAINST MS BEENA.
Annexure 6 [I]	TRUE COPY OF THE AWARD(ARC NO.2107 /2022) DATED 08.04.2022, AGAINST MR SUHARBAN.
Annexure 6 [J]	TRUE COPY OF THE AWARD(ARC NO.2108 /2022) DATED 08.04.2022, AGAINST MR SHARAFUDDEEN.

Annexure 6 [K]	TRUE COPY OF THE AWARD (ARC NO.2109 /2022)DATED 08.04.2022, AGAINST MR AHAMMEDKOYA.
Annexure 6 [L]	TRUE COPY OF THE AWARD(ARC NO.2110 /2022) DATED 08.04.2022, AGAINST MS SHAHBANATH.
Annexure 6 [M]	TRUE COPY OF THE AWARD(ARC NO.2111 /2022) DATED 08.04.2022, AGAINST MR MOHANAN PILLAI.
Annexure 6 [N]	TRUE COPY OF THE AWARD(ARC NO.2102 /2022) DATED 08.04.2022, AGAINST MR SHAMNAD.
Annexure 7	TRUE COPY OF THE AWARD(ARC NO. 2733/2021) DATED 16.12.2021, AGAINST MS BEENA L.
Annexure 7 [A]	TRUE COPY OF THE AWARD (ARC NO.2723 /2021)DATED 16.12.2021, AGAINST MR BABU.
Annexure 7 [B]	TRUE COPY OF THE AWARD(ARC NO.2722 /2021) DATED 16.12.2021, AGAINST MR RAVINATHAN PILLAI.
Annexure 7 [C]	TRUE COPY OF THE AWARD(ARC NO.2724 /2021) DATED 16.12.2021, AGAINST MR RAKESH RB.
Annexure 7 [D]	TRUE COPY OF THE AWARD(ARC NO. 2721/2021) DATED 16.12.2021, AGAINST MS SINDHU.
Annexure 7 [E]	TRUE COPY OF THE AWARD(ARC NO.2732 /2021) DATED 16.12.2021, AGAINST MR ANEESH.
Annexure 7 [F]	TRUE COPY OF THE AWARD(ARC NO. 2731/2021) DATED 16.12.2021, AGAINST MS ANJALY.
Annexure 7 [G]	TRUE COPY OF THE AWARD(ARC NO. 2725/2021) DATED 16.12.2021, AGAINST MS SUSHAMMA.