



2024:KER:93289

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

MONDAY, THE 9TH DAY OF DECEMBER 2024/18TH AGRAHAYANA, 1946

CRL.MC NO.10329 OF 2024

CRIME NO.505/2017 OF MALAMPUZHA POLICE STATION, PALAKKAD
SC NO.295 OF 2018 OF FAST TRACK SPECIAL COURT, ALATHUR

PETITIONER/SOLE ACCUSED:

MUHAMMED NAZEER, AGED 46 YEARS,
S/O.SAITH MUHAMMED, KALATHIL HOUSE,
SHAHEENA MANZIL, 4/321, CHANDAPURA KUZHALMANNAM,
PALAKKAD, PIN - 678571.

BY ADV. V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT/COMPLAINANT & STATE:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031.

BY ADV. C.N.PRABHAKARAN, SR.PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 09.12.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:



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O R D E R

Dated, this the 9th day of December, 2024

Petitioner herein is the sole accused in Cr1.M.C No.505/2017 of Malampuzha Police Station, Palakkad, which is now pending consideration before the Fast Track Special Court, Alathur as S.C.No.295/2018. The offences alleged are under Sections 419, 420 and 506(i) of the Penal Code.

2. The petitioner preferred Cr1.M.C.No.5772/2022 before this Court to quash Annexure-1 Final Report. The same is pending consideration. However, no interim order staying further proceedings was issued in that case. The instant Cr1.M.C is filed on the premise that the petitioner was employed at Mumbai; that he was under the *bonafide* belief that Annexure-1 Final Report will be quashed by this Court in the pending Cr1.M.C; and that the trial court has now issued non-bailable warrant against the petitioner. Though the petitioner is prepared to surrender and face the trial, he apprehends arrest and detention due to the issuance of non-bailable warrant



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against him, wherefore, the instant Cr1.M.C is filed. The reliefs sought for herein is to direct the Fast Track Special Court, Alathur to consider and pass appropriate orders in the bail application of the petitioner on the date of his surrender itself.

3. Having heard the learned counsel for the petitioner and the learned Public Prosecutor, this Court cannot approve the petitioner's conduct in filing a separate Cr1.M.C, only for enabling the petitioner to surrender before the trial court. It is not in dispute that Annexure-1 Final Report is sought to be quashed in Cr1.M.C No.5772/2022. Relief, if any, in connection with his surrender should have been sought for in that Cr1.M.C; and not by filing a separate Cr1.M.C. This Court also notice that the Sessions Case concerned is of the year 2018 and the petitioner has been absconding till now. His contention in paragraph no.4 of the Cr1.M.C that he was under the *bonafide* belief that Annexure-1 Final Report will be quashed in the pending Cr1.M.C, cannot be taken without a pinch of salt. After absconding from the process of the court,



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the petitioner is now submitting that he is prepared to surrender, and seeks protection from this Court invoking its inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, a course which may have to be deprecated.

4. For the reasons afore cited, this Court is not inclined to grant any relief in this separate Cr1.M.C preferred by the petitioner. This will not, however, mean that the petitioner is not at liberty to surrender before the trial court and that his application for bail, if any, need not be considered expeditiously, in accordance with law. The same will have to be done, as enjoined by law - in accord with the binding precedents - but not on account of any relief or direction granted by this Court in the present Miscellaneous Application.

Accordingly, this instant Cr1.M.C. will stand dismissed.

Sd/-

C. JAYACHANDRAN, JUDGE

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APPENDIX OF CRL.MC 10329/2024

PETITIONER'S ANNEXURES:

ANNEXURE 1

TRUE COPY OF THE FINAL REPORT IN CRIME
NO.505/2017 OF MALAMPUZHA POLICE STATION,
PALAKKAD NOW PENDING AS S.C.NO.295/2018
ON THE FILES OF THE FAST TRACK COURT,
ALATHUR.