

IN THE COURT OF THE SPECIAL JUDGE, (SPE/CBI)-I, ERNAKULAM

Present:- Sri. K. Sathyan, Special Judge, Ernakulam
Thursday the 6th day of February, 2020/17th Magha, 1941

Crl.MP No.471/2019 in CC No.05/2012

Petitioner/Accused No.3:

M/s.Malappuram Hotels Pvt.Ltd. represented by its
Managing Director K.P.Haridas

By Adv. M/s.Binoy Vasudevan & P.G.Babitha

Respondent/Complainant:

The Central Bureau of Investigation Cochin

By Public Prosecutor CBI

This petition coming on for hearing before me on 30.01.2020 and the Court on 06.02.2020 passed the following:

ORDER

1. This is an application filed under Section 305(2) of the Code of Criminal Procedure, 1973 by the third accused,, which is a Pvt. Ltd. Company registered under the provisions of the Companies Act, 1956.

2. The accused, including the petitioner, are prosecuted for offences punishable under Section 120B IPC and Sections 7, 12 and 13(2) r/w 13(1)(d) of

Prevention of Corruption Act, 1988. The fourth accused was the Managing Director in December 2010 when the incidents alleged leading to this prosecution happened.

3. The respondent has shown Shri.K.P. Haridas, the Managing Director who succeeded A4 as the representative of the petitioner/third accused company. This application is filed stating that the company has resolved that the fourth accused will represent it in this proceedings instead of Shri.K.P.Haridas.

4. The respondent has filed an objection narrating facts of the case and contended that Shri.K.P.Haridas was the person who represented A3 when the final report was filed and therefore this petition filed by him may be dismissed.

5. Section 305 Cr.P.C provides for the procedure when corporation or registered society is an accused. Sub Section (2) says that "Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation".

6. The petitioner has produced resolution dated 31.10.2019 authorising A4, who is a share holder of the company now, to represent the company in this case. The decision of the Hon'ble High Court in **RBI v. Nedungadi Bank Ltd. And Others [2012 (4) KLT 563]** will also support the case of the petitioner.

7. In view of Section 305(2) Cr.P.C and the resolution mentioned above, third accused is permitted to be represented by A4 in this proceedings from hereafter.

In the result,

1. CrI.M.P is allowed.
2. The fourth accused is permitted to represent A3 in this proceedings hereafter.

Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court on this the 6th day of February, 2020.

Sd/-

K. Sathyan
Special Judge (SPE/CBI)-I

Appendix: Nil

Id/-

Special Judge (SPE/CBI)-I
(By Order)

//True Copy//

Sd/-
Sheristadar

Typed by: Sindhu.S.T

Comp.by:

Order in Crl.MP No.471/2019
in
CC No.05/2012
Dated: 06.02.2020