



2025:KER:29235

Crl.M.C.No.2745/2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

CRL.MC NO. 2745 OF 2020

CRIME NO.3371/2016 OF TOWN EAST POLICE STATION, THRISSUR

AGAINST THE ORDER IN CRRP NO.38 OF 2019 OF IIIRD ADDITIONAL
SESSIONS COURT, THRISSUR ARISING OUT OF THE ORDER IN CRMP NO.2137 OF
2017 OF CHIEF JUDICIAL MAGISTRATE,THRISSUR

PETITIONERS:

- 1 A.O.ANTO,
AGED 60 YEARS,
S/O.OUSEPH, ARAKKAL HOUSE, AMBAKKAD DESAM,
PUZHAKKAL VILLAGE, THRISSUR TALUK,
NOW RESIDING AT NO.1-A, FIRST FLOOR,
PARK LAND APARTMENTS,
THRISSUR DISTRICT-1.
- 2 JINU AJITH,
AGED 29 YEARS,
W/O.ARAKKAL AJITH, ARAKKAL HOUSE,
AMBAKKAD DESAM, PUZHAKKAL VILLAGE,
THRISSUR TALUK, NOW RESIDING AT NO.1-A,
FIRST FLOOR, PARK LAND APARTMENTS,
THRISSUR DISTRICT-1.

BY ADVS.N.M.MADHU
SRI.P.P.HARRIS
SMT.C.S.RAJANI

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
THRISSUR TOWN EAST POLICE STATION (CRIME NO.3371/2016)
AND BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM-682 031.
- 2 NAVODAYA KURIES LTD.,
GROUND FLOOR, PARKLAND REGENCY APARTMENTS,
AMBAKADAN JUNCTION, THRISSUR TOWN,
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER AND PRESENT



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DIRECTOR THOMAS K.DAVIS,
AGE 52 YEARS, S/O.KALLUKKARAN DEVASSY,
THALORE DESOM, THALORE VILLAGE,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADV SRI.G.SREEKUMAR (CHELUR) FOR R2
SMT. SEETHA S., SR. PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
02.04.2025, THE COURT ON 07.04.2025 PASSED THE FOLLOWING:

**ORDER**

Accused Nos.1 and 3 in Crime No.3371/2016 of Thrissur Town East Police Station, have filed this petition under Section 482 Cr.P.C to quash the order dated 29/02/2020 of the Additional Sessions Judge-III, Thrissur in Crl.R.P.No.38/2019. The aforesaid Crl.R.P was filed challenging the order dated 27.04.2017 of the Chief Judicial Magistrate, Thrissur, in Crl.M.P.No.2137/2017, directing further investigation under Section 173(8) of the Code of Criminal Procedure.

2. The crime was registered by the Thrissur East Police in respect of the offences under Sections 403, 406, 409, 417, 420, 468 and 471 I.P.C read with Section 34 I.P.C, as per the directions of the Chief Judicial Magistrate, Thrissur, under Section 156(3) Cr.P.C upon a complaint filed by the second respondent. The allegation in the complaint was that, while the first petitioner was the Chairman of the second respondent company, he misappropriated an amount of Rs.82,332/- by using forged documents and transferred the same to the second petitioner's kuri account. After the completion of the investigation, the police filed a refer-report before the learned Chief Judicial Magistrate, stating that the dispute involved was that of civil



nature. The second respondent/de facto complainant filed an objection to the refer-report vide Crl.M.P.No.2137/2017. In the aforesaid Crl.M.P, the learned Chief Judicial Magistrate passed a cryptic order as follows: *"Complainant is present. Forwarded to S.H.O. Thrissur Town East for further investigation u/s. 173(8) Cr.P.C."* It is the aforesaid order of the learned Chief Judicial Magistrate, which the petitioners challenged before the Additional Sessions Court-III, Thrissur by filing Crl.R.P.No.38/2019.

3. In the aforesaid Crl.R.P, the petitioners raised multiple challenges including the maintainability of a revision petition against the order of the learned Chief Judicial Magistrate directing further investigation, the scope of ordering further investigation under Section 173(8) Cr.P.C, and also the cryptic nature of the order passed by the learned Chief Judicial Magistrate, without any reasonings. In the impugned order, the learned Additional Sessions Judge declined to accept all the above challenges of the petitioners except the contention that the learned Chief Judicial Magistrate had not passed a speaking order stating the reasons for directing a further investigation. Referring to the observations of the Apex Court in **The Secretary and Curator, Victoria Memorial v. Howrah Ganatantrik Nagrik Samity and**



Others [JT 2010 (2) SC 566], about the need to incorporate reasons in the orders passed by the judicial authorities, the learned Additional Sessions Judge held that the impugned order passed by the learned Chief Judicial Magistrate without assigning reasons, is totally unsustainable. Accordingly, the learned Additional Sessions Judge set aside the impugned order passed by the learned Chief Judicial Magistrate on 27.04.2017 in Crl.M.P.No.2137/2017, and directed the learned Chief Judicial Magistrate to pass fresh orders on the objection filed by the second respondent/de facto complainant to the refer-report, in accordance with law. It is the aforesaid order passed by the learned Additional Sessions Judge-III, Thrissur, which the petitioners seek to quash in the present petition.

4. Heard the learned counsel for the petitioners, the learned counsel for the second respondent/de facto complainant and the learned Public Prosecutor representing the State of Kerala.

5. As already stated above, the learned Additional Sessions Judge-III, Thrissur, set aside the order directing the further investigation on the ground that the learned Chief Judicial Magistrate did not assign any reasons for passing such an order. The matter was remanded back to the Chief Judicial Magistrate Court for fresh consideration, and to



pass orders on the objection filed by the second respondent/de facto complainant to the refer-report filed in this case. It is obvious from the above order of the learned Additional Sessions Judge that, the order to be passed by the learned Chief Judicial Magistrate in the matter of further investigation shall contain the specific reasoning for arriving at the decision taken thereunder. The observation of the learned Additional Sessions Judge in the above regard, is perfectly right.

6. The learned Chief Judicial Magistrate ought to have stated in the order passed by her, about the reasons why she decided to direct further investigation under Section 173(8) Cr.P.C. So also, the learned Chief Judicial Magistrate ought to have made it clear in the impugned order about her view on the objections raised by the second respondent/de facto complainant to the refer-report filed by the police. Therefore, the prayer in this petition to quash the order passed by the Additional Sessions Judge-III, Thrissur, cannot be accepted. Needless to say that the present petition filed by the petitioners, can only fail.

In the result, the petition is hereby dismissed, upholding the order passed by the learned Additional Sessions Judge-III, Thrissur. However, it is made clear that the learned Chief Judicial Magistrate shall pass orders in compliance with the directions of the learned Additional



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Sessions Judge-III, Thrissur, uninhibited by the previous order passed by the Magistrate directing further investigation.

(Sd/-)

G. GIRISH, JUDGE

jsr



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APPENDIX OF CRL.MC 2745/2020

PETITIONER ANNEXURES

ANNEXURE A1	TRUE COPY OF THE ARTICLES OF ASSOCIATION OF THE RESPONDENT.
ANNEXURE A2	CERTIFIED COPY OF THE COMPLAINT FILED AGAINST THE PETITIONERS AND OTHER BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR AS CMP NO.6149/2016.
ANNEXURE A3	CERTIFIED COPY OF THE FIR IN CRIME NO.3371/2016 OF THRISSUR TOWN EAST POLICE STATION.
ANNEXURE A4	TRUE COPY OF THE ORDER DATED 08.04.2016 IN CRL.MC NO.640/2016 PASSED BY THE SESSIONS JUDGE, THRISSUR.
ANNEXURE A5	TRUE COPY OF THE FINAL REPORT IN CRIME NO.3371/2016 OF THRISSUR TOWN EAST POLICE STATION AS RC NO.90/2016.
ANNEXURE A6	TRUE COPY OF THE OBJECTION FILED BY THE SECOND RESPONDENT TO ANNEXURE A5.
ANNEXURE A7	TRUE COPY OF THE ORDER DATED 27.04.2017 IN ANNEXURE A6 PASSED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR.
ANNEXURE A8	CERTIFIED COPY OF THE ORDER DATED 29.02.2020 IN CRL.RP NO.38/2019 PASSED BY THE III ADDITIONAL SESSIONS JUDGE, THRISSUR.
ANNEXURE A9	TRUE COPY OF THE LAWYER NOTICE DATED 21.03.2016 SENT BY THE PETITIONER
ANNEXURE 10	TRUE COPY OF THE REPLY DATED 26.03.2016 TO ANNEXURE A9.
ANNEXURE A11	TRUE COPY OF THE PLAINT IN OS NO.1885/2016 ON THE FILES OF THE MUNSIFF COURT, THRISSUR.



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| ANNEXURE A12 | TRUE COPY OF THE COMMISSION REPORT FILED BY THE ADVOCATE COMMISSIONER. |
| ANNEXURE A13 | TRUE COPY OF THE REPLY LAWYER NOTICE DATED 30.03.2016. |
| ANNEXURE A14 | TRUE COPY OF THE AUDIT REPORT OF THE SECOND RESPONDENT COMPANY FOR THE FINANCIAL YEAR 2014-2015. |
| ANNEXURE A15 | TRUE COPY OF THE AUDIT REPORT OF THE SECOND RESPONDENT COMPANY FOR THE FINANCIAL YEAR 2015-2016. |