



2025:KER:18531

Crl.M.C.No.8476/2019

-1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

WEDNESDAY, THE 5TH DAY OF MARCH 2025 / 14TH PHALGUNA, 1946

CRL.MC NO. 8476 OF 2019

AGAINST THE ORDER IN CC NO.552 OF 2019 OF JUDICIAL MAGISTRATE
OF FIRST CLASS , KAYAMKULAM

PETITIONER/ACCUSED NO.9:

D.ASOK KUMAR
AGED 55 YEARS
S/O.T.N.DAMODARA PANIKER,
SUB REGISTRAR (AMALGAMATED SUB REGISTRAR) ,
DISTRICT REGISTRAR OFFICE,
ALAPPUZHA, PRESENT ADDRESS DISTRICT REGISTRAR,
OFFICE OF THE DISTRICT REGISTRAR,
THALASSERY, KANNUR, RESIDING AT MADAVANA,
AMRITHA, PERUNNA WEST,
PANACHIKAVU.P.O.CHANGANACHERRY,
KOTTAYAM PIN-686102

BY ADVS. J.OM PRAKASH
SRI.T.G.SUNIL (PRANAVAM)
SRI.C.X.ANTONY BENEDICT

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031
- 2 NUJUMUDEEN
S/O.USMANKUTTY, AALUMOOTIL VEEDU,
CHERAVALLY.P.O., KAYAMKULAM, ALAPPUZHA-690502

OTHER PRESENT:

SRI SANGEETHARAJ NR, PP

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
05.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ORDER**

The petitioner is the 9th accused in C.C.No.552/2019 on the files of the Judicial First Class Magistrate Court-I, Kayamkulam, a case which arose out of the private complaint filed by the second respondent herein, alleging the commission of offences under Section 120B, 465, 468, 471, 418 & 423 read with Section 34 of the Indian Penal Code, 1860 (*in short, 'IPC'*). The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (*in short, 'Cr.PC'*), to quash the proceedings against the petitioner herein, in the aforesaid case. The allegation against the petitioner is that, he being the Sub Registrar at the amalgamated office of the District Registrar, at District Headquarters, Alappuzha, connived with other accused for the registration of three title deeds to the detriment of interests of the de facto complainant.

2. In the present petition, the petitioner would contend that he is no way involved in the offences alleged in this complaint, and that he had only performed his duty as a Sub Registrar working in the amalgamated office at the office of the District Registrar, Alappuzha.



3. Though notice of this petition was duly served on the second respondent, he did not choose to appear before this Court or to file any counter.

4. Heard the learned counsel for the petitioner.

5. Referring to Annexure-C request submitted by the second accused in the complaint, it is submitted by the learned counsel for the petitioner that the above request for the registration of documents at the amalgamated office at Alappuzha, was duly forwarded by the petitioner to the Sub Registrar, Kayamkulam, for verification and return. As per Annexure-C document, the Sub Registrar, Kayamkulam, is seen to have reported the details of the property with the remark that 'there is no court attachment'. Thereafter, Annexure-D sale deed had been executed by accused Nos.2, 4 & 5, in respect of an extent of 1.50 Ares of land, which according to them, remained under their ownership. Likewise, the fourth accused had submitted Annexure-E request which was forwarded to the Sub Registrar, Kayamkulam, for verification and report by the petitioner herein. On the basis of Annexure-E(2) report from the Sub Registrar, Kayamkulam, Annexure-F sale deed is seen to have been executed by the parties concerned. The same process was followed vide Annexure-G request and Annexure-H sale deed executed



at the amalgamated Sub Registrar Office, Alappuzha. Thus, by relying on the aforesaid documents, the learned counsel for the petitioner pointed out that the petitioner had only performed the duties cast on him, in accordance with the due process of law, and that he cannot be said to have committed any offence in connection with the performance of the aforesaid duty. Further, it is submitted by the learned counsel for the petitioner by relying on Section 84 of the Registration Act, 1908(*in short, 'Act'*), that the petitioner is a deemed public servant within the meaning of the Indian Penal Code and hence, the aforesaid act of registration of documents comes within the purview of the official duty of the petitioner, which has got the protection of Section 197 Cr.PC.

6. As rightly pointed out by the learned counsel for the petitioner, the documents produced by the petitioner as Annexures-C to H would reveal that the petitioner had been discharging his official duty as Sub Registrar in connection with the registration of the properties mentioned in Annexures-D to H title deeds. Going by the provisions contained in Section 84 of the Act, every Registering Officer appointed under the said Act shall be deemed to be public servant within the meaning of Indian Penal Code. Therefore, the petitioner herein would come under the definition of public servant, in view of the aforesaid



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deemed provision of the Act. As it is seen that he had registered the aforesaid title documents in exercise of his official duty as Sub Registrar of the amalgamated office, at the Office of the District Registrar, Alappuzha, sanction as required under Section 197(1) Cr.PC, is inevitable for prosecuting the petitioner in connection with any offence related to the said official act performed by him. Therefore, the impugned order passed by the learned Magistrate on 15.07.2019 in C.M.P.No.8265/2018, taking cognizance of the offence under Sections 120B, 465, 468, 471, 418 & 423 read with Section 34 of the IPC against the petitioner herein, is legally unsustainable. Needless to say that the request of the petitioner to quash the proceedings against him in the said case is well founded.

In the result, the petition stands allowed. The proceedings against the petitioner/accused No.9 in C.C.No.552/2019 on the files of the Judicial First Class Magistrate Court-I, Kayamkulam, are hereby quashed.

(Sd/-)
G. GIRISH, JUDGE

DST



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APPENDIX

PETITIONER ANNEXURES

ANNEXURE A	TRUE COPY OF ORDER OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT NO.1, KAYAMKULAM IN CMP 8265/2018
ANNEXURE B	TRUE COPY OF CERTIFIED COPY OF THE COMPLAINT IN CC 552/2019 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT NO 1., KAYAMKULAM
ANNEXURE C	TRUE COPY OF APPLICATION SUBMITTED BY THE SMT.LAILA DATED 10.02.2015 AND THE REPORT OF THE SUB REGISTRAR, KAYAMKULAM
ANNEXURE D	TRUE COPY OF SALE DEED NO.3857/2017 EXECUTED BY SMT.LAILA
ANNEXURE E	TRUE COPY OF APPLICATION DATED 20.11.2017 SUBMITTED BY SMT. OSEELA AND THE REPORT OF THE SUB REGISTRAR, KAYAMAKULAM
ANNEXURE F	TRUE COPY OF SALE DEED NO.3903/2017 EXECUTED BY SMT.OSEELA
ANNEXURE G	TRUE COPY OF APPLICATION DATED 11.04.2018 AND THE REPORT OF THE SUB REGISTRAR, KAYAMKULAM
ANNEXURE H	TRUE COPY OF SALE DEED NO.1548/2018 EXECUTED BY SHRI, ABDUL AZIZ
ANNEXURE I	TRUE COPY OF GO. MS 909 DATED 29.10.1962 ISSUED BY HE JOINT SECRETARY TO GOVERNMENT