

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOMAS P.JOSEPH

TUESDAY, THE 31ST MAY 2011 / 10TH JYAISHTA 1933

Crl.MC.No. 1460 of 2011()

**CC.410/2010 of JUDICIAL MAGISTRATE OF FIRST CLASS-I,
KARUNAGAPPALLY , KOLLAM DISTRICT**
.....

PETITIONER(S): DEFACTO COMPLAINANT

**SOBHANAN, S/O.SREEDHARAN KURUKKASSERIL,
CLAPPANA SOUTH, CLAPPANA P.O.,
KOLLAM DISTRICT-690547.**

**BY ADVS. SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR
SRI.K.JAGADEESH**

RESPONDENT(S): STATE AND THE INVESTIGATING OFFICER

- 1. THE STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
KARUNAGAPPALLY POLICE STATION,
KARUNAGAPPALLY, KOLLAM-690518.**

R1 & R2 BY PUBLIC PROSECUTOR SRI.MANU

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31/05/2011, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

SVS

THOMAS P JOSEPH, J.

Crl.M.C.No.1460 of 2011

Dated this 31st day of May, 2011

ORDER

De facto complainant in Crime No.410 of 2009 of Oachira Police Station is the petitioner before me. He alleged theft of 9½ sovereigns of gold ornaments from his sister and her daughter. Petitioner complains that there is no proper investigation of the case and that no attempt was made to recover the stolen article. In the meantime the police submitted final report against accused 1 to 3 on which learned Judicial First Class Magistrate, Karunagappally has taken cognizance for offences punishable under Secs.457, 380 and 411 r/w Sec.34 of the Indian Penal Code. Learned Magistrate has filed the case as C.C.No.410 of 2010. Petitioner has received summons in the case. His apprehension is that if without recovery of the material object the case goes for trial, it will end in acquittal. Hence it is prayed that the second respondent may be directed to conduct reinvestigation of Crime No.410 of 2009. Learned counsel argued that in the circumstances stated above, this Court may direct re or atleast, further investigation of the case. Learned Public Prosecutor has submitted that on questioning accused 1 to 3, it

was revealed that they had entrusted the stolen article to the fourth accused whose whereabouts, the police has not able to find and hence no recovery could be effected. It is in the circumstances that final report was submitted against accused 1 to 3. Learned Public Prosecutor submitted that accused 1 to 3 were arrested on 05.03.2010 and are in judicial custody.

2. It is seen from the final report submitted by the police that it is directed only against accused 1 to 3. Concededly, may be for the reason that whereabouts of the fourth accused could not be traced, no recovery could be effected. In the circumstances it appears to me that further investigation of the case is required. But I do not find reason to direct re-investigation of the case.

This criminal miscellaneous case is disposed of in the following lines:

(i) The second respondent (Circle Inspector, Karunagappally) is directed to conduct further investigation of Crime No.410 of 2009 of Oachira Police Station and make every endeavour to trace the fourth accused, recover the (alleged) stolen article and submit final report against fourth accused as well.

(ii) Second respondent shall file periodical reports before the learned Judicial First Class

Magistrate, Karunagappally as to the progress of further investigation.

(iii) Circle Inspector shall make every endeavour to complete such further investigation within a period of four months from the date of receipt of a copy of this order (which shall be made available by the petitioner).

(iv) Trial of C.C.No.410 of 2010 of learned Judicial First Class Magistrate, Karunagappally will stand in abeyance for a period of four months from this day or till further report is filed by the second respondent, whichever is earlier.

(v) In case accused 1 to 3 are not required to be in custody in connection with any other case, learned Judicial First Class Magistrate, Karunagappally may consider whether it is possible to grant bail to accused 1 to 3 on appropriate condition as learned Magistrate deems fit.

(THOMAS P JOSEPH, JUDGE)

Sbna/-