



2023:KER:81777

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

THURSDAY, THE 21ST DAY OF DECEMBER 2023 / 30TH AGRAHAYANA, 1945

WP(C) NO. 39333 OF 2023

PETITIONER:

ZAMRA ENDEAVOURS PVT LTD REPRESENTED BY ITS
MANAGING DIRECTOR RIYAS M.A, AGED 49 YEARS
MANAKKATTU BUILDING, CHANGAMPUZHA NAGAR P O,
SOUTH KALAMASSERY KOCHI ERNAKULAM, PIN - 682011

BY ADVS.
STIYA SIVAN
K.R.RENJU
T.M.MUHAMMED MUSTHAQ
ANILA ANTONY
ASITHA M.M.
ANJITHA APREM
NEETHU M.NAIR

RESPONDENTS:

- 1 DEPUTY COMMISSIONER OF POLICE, COMMISSIONER OFFICE,
PARK VIEW MARINE DRIVE, ERNAKULAM., PIN - 682011
- 2 STATION HOUSE OFFICER, KALAMASSEY POLICE STATION
3RD FLOOR, MANATH TOWER, TOG RD, OPP. KALAMASSERY,
SOUTH KALAMASSERY, KALAMASSERY, KOCHI, KERALA.,
PIN - 682033
- 3 WATCHTOWER BIBLE AND TRACT SOCIETY OF INDIA.
ARCADE, BRIGADE ORCHADS, SPINAL ROAD, DEVANAHALLI,
KARNATAKA., PIN - 562110
- 4 IMAM SALIH, A 13 A 4, KENT HAIL GARDEN APARTMENTS,
STADIUM LINK ROAD, PALARIVATTOM, KOCHI 682 025
(ADDL R4 IS IMPEADED AS PER ORDER IN IA 1/2023
DATED 21.12.2023)

BY ADVS.
SAIBY JOSE KIDANGOOR
BENNY ANTONY PAREL
ANOOP SEBASTIAN
PRAMITHA AUGUSTINE
ADITHYA KIRAN V.E
ADRISYA S.
SUNIL KUMAR KURIAKOSE - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner is a Convention Centre Hall, in which an incendiary event occurred on 29.10.2023. Criminal investigation was lodged and it is stated by the learned Government Pleader – Sri.Sunil Kumar Kuriakose, that samples have been taken and sent to the Forensic Laboratory for examination. The petitioner prays that they be allowed to operate the Centre/Hall, since there are several bookings scheduled; and that their customers have been put to unnecessary inconvenience.

2. Sri.Saiby Jose Kidangoor – learned counsel for the 4th respondent, submitted that his client is one of those who had booked the Centre/Hall in advance for his son's wedding reception on 20.01.2024. He added that if the hall is not released, his client would be put to irreparable prejudice.

3. In response to the afore submissions made by Smt.Stiya Sivan – learned counsel for the petitioner, Sri.Sunil Kumar Kuriakose – learned Government Pleader, submitted that there are no legal impediments in the possession of the Convention Centre being



restored back to the petitioner, but that there is a practical difficulty, namely, that if the Forensic Department asks for any further samples, it will become untenable. He added that since two mobile phones were also seized from the site of Crime and sent for evaluation, it is only after its report is obtained, will it be discernible if the competent Central Agency have to intervene.

4. Though I find the afore explanation of the learned Government Pleader to be worthy, the fact remains that the petitioner cannot be put to prejudice *ad infinitum*. The incident happened on 29.10.2023 and it has been over 60 days thereafter. It may be true that samples have been taken from the Hall and sent for forensic evaluation; and the only apprehension voiced by the learned Government Pleader is that if any further samples are required, it will become impossible, once the same is used by other persons.

5. The afore, in my view, cannot be a reason for not allowing the restoration of possession of the Hall because, the Investigating Agencies can certainly take further samples within the next few days and preserve it, should it become necessary for



further evaluation. The delay caused by the Forensic Laboratory certainly cannot impede the right of the petitioner to be restored back the Hall any further.

6. That being said, the further explanation of the learned Government Pleader that, Central Agencies may or may not intervene, depending upon the results of the forensic evaluation, also does not appeal to me because, this is speculative and conjectural and something which may or may not happen in future.

In the afore circumstances, I allow this Writ Petition with the following directions:

a) The competent Investigating Officer is at liberty to take fresh samples from the crime scene and preserve it in terms of law and as per the provisions of the applicable penal Statutes, within a period of two days from the date of receipt of a copy of this judgment

b) The 1st respondent – Deputy Commissioner of Police, will thereupon and on the very next day, handover the Convention Centre to its Managing Director/Authorised person, upon obtaining necessary receipt and complying with all necessary formalities.



c) I record the undertaking of the learned counsel for the petitioner that, they would comply with any request from the Investigating Authority - either present or in future - with respect to the incident and that they will co-operate in the investigation, as required.

RR

Sd/-

DEVAN RAMACHANDRAN
JUDGE

**APPENDIX OF WP(C) 39333/2023**

PETITIONER EXHIBITS

- Exhibit - P-1 A TRUE COPY OF THE EVENT AGREEMENT DATED 28.04.2023 EXECUTED BETWEEN THE PETITIONER AND THE 4TH RESPONDENT.
- Exhibit - P-2 A TRUE COPY OF THE BOOKING CONFIRMATIONS AND PAYMENT RECEIPTS ISSUED BY THE PETITIONER.

RESPONDENT ANNEXURES

- ANNEXURE R1(a) TRUE COPY OF REQUISITION SUBMITTED BEFORE THE DISTRICT AND SESSIONS COURT ERNAKULAM TO FORWARD DVRs TO THE DIRECTOR, FORENSIC SCIENCE LABORATORY, THIRUVANANTHAPURAM ALONG WITH STANDARD REQUISITION FORM FOR FORWARDING DIGITAL EVIDENCE TO FORENSIC SCIENCE LABORATORY DATED 23-11-23
- ANNEXURE R1(b) TRUE COPY OF THE RECEIPT FOR FORWARDING THE ABOVE TO THE FSL DATED 1-12-2023 ISSUED BY THE STATE FORENSIC SCIENCE LABORATORY
- ANNEXURE R1(c) TRUE COPY OF REQUISITION SUBMITTED BEFORE THE DISTRICT AND SESSIONS COURT ERNAKULAM TO FORWARD 4 MOBILE PHONES TO THE DIRECTOR FORENSIC SCIENCE LABORATORY THIRUVANANTHAPURAM ALONG WITH STANDARD REQUISITION FORM FOR FORWARDING DIGITAL EVIDENCE TO FORENSIC SCIENCE LABORATORY DATED 23-11-23
- ANNEXURE R1(d) TRUE COPY OF REQUISITION SUBMITTED BEFORE THE DISTRICT AND SESSIONS COURT ERNAKULAM TO FORWARD 2 MOBILE PHONES TO THE DIRECTOR FORENSIC SCIENCE LABORATORY THIRUVANANTHAPURAM ALONG WITH STANDARD REQUISITION FORM FOR FORWARDING DIGITAL EVIDENCE TO FORENSIC SCIENCE LABORATORY
- ANNEXURE R1(e) TRUE COPY OF THE RECEIPT FOR FORWARDING THE ABOVE 6 MOBILE PHONES TO THE FSL DATED 1-12-2023 ISSUED BY THE STATE FORENSIC SCIENCE LABORATORY
- ANNEXURE R1(f) TRUE COPY OF THE APPLICATION SUBMITTED FOR THE SAME BEFORE THE PRINCIPAL DISTRICT AND SESSIONS COURT ERNAKULAM DATED 30-11-2023 ALONG WITH THE FORWARD NOTE AND LIST OF EXIHIBITS
- ANNEXURE R1(g) TRUE COPY OF THE RECEIPT FOR FORWARDING



THE SAMPLES DATED 5-12-2023 ISSUED BY THE
STATE FORENSIC SCIENCE LABORATORY

RESPONDENT ANNEXURES

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| Annexure R4(a) | TRUE COPY OF THE INVITATION CARD PRINTED
BY THE PETITIONER TO INVITE FRIENDS AND
FAMILY |
| Annexure R4(b) | TRUE COPY OF THE RECEIPT DATED 19.7.2023 |