

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Crl.MC.No. 14 of 2015

**CC 1278/2012 OF JUDICIAL FIRST CLASS MAGISTRATE'S COURT, ADOOR.
CRIME NO. 1206/2011 OF ADOOR POLICE STATION, PATHANAMTITTA.**
.....

PETITIONER/17TH ACCUSED:

**MANISREE T,
CHIRAYIL KIZHAKKEKARA, THOTTUVA,
THENGAMOM.P.O., PATHANAMTHITTA-690 522.**

**BY DR.K.P.SATHEESAN (SENIOR ADVOCATE)
ADVS. SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.N.MANU THAMPI**

RESPONDENT(S)/STATE & COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
ADOOR POLICE STATION,
PATHANAMTHITTA DISTRICT, PIN - 691 523.**

BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE I- : TRUE COPY OF THE IDENTITY CARD OF THE PETITIONER.

**ANNEXURE II- : CERTIFIED COPY OF THE FINAL REPORT FILED BY THE
2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE'S COURT, ADOOR IN CRIME NO.1206/2011 OF
ADOOR POLICE STATION.**

**ANNEXURE III- : TRUE COPY OF THE APPOINTMENT ORDER ISSUED BY THE
DIRECTOR OF COLLEGIATE EDUCATION DATED 26.05.2014.**

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

B.KEMAL PASHA, J.

.....
CRL.M.C. No.14 of 201

.....
Dated this the 20th day of January, 2015

ORDER

The petitioner, who is the 17th accused in C.C.No.1278/2012 of the Judicial First Class Magistrate's Court, Adoor, which has arisen from Crime No.1206/2011 of the Adoor Police Station registered for the offences punishable under Sections 143, 147, 149, 323, 324, 354 and 427 read with Section 149 of the Indian Penal Code, has come up with this CrI.M.C. under Section 482 Cr.P.C. to get the proceedings in the said case against her, quashed.

2. The allegation against the petitioner and the other accused is that on 28.11.2011 at 10.30 a.m., they formed themselves into an unlawful assembly and trespassed into the courtyard of the house of the defacto complainant. It is

alleged that A1 to A6 criminally trespassed into the house of the defacto complainant and A2 beat the defacto complainant with a chair thereby causing injuries on her head. They assaulted her husband Radharkrishnan also. It is further alleged that A5, A6 and A9 assaulted the mother of the defacto complainant Thankamma, her sister Radhamony and her son Lalraj. It is further alleged that the house hold articles of the defacto complainant were smashed and destroyed thereby causing a wrongful loss of ₹2 lakhs to the defacto complainant. The crime was initially registered against A1 to A10 and 100 other identifiable persons. Subsequently, when the final report has been filed, the petitioner has been arraigned as the 17th accused.

3. The petitioner was an elected member of the block Panchayath as a candidate of the CPI(M). According to the petitioner, she was unnecessarily implicated due to political animosity by the defacto complainant, who owes allegiance to the congress party. It is the case of the petitioner that no

overt act has been alleged against the petitioner and even if the trial is conducted there is no chance of conviction of the petitioner.

4. Heard the learned Senior Counsel for the petitioner and the learned Public Prosecutor.

5. The learned Senior Counsel for the petitioner has pointed out that the incident had allegedly occurred on 28.11.2011 and the final report was filed on 31.12.2011. The case is numbered as C.C.No.1278/12. According to the learned Senior Counsel for the petitioner, on 01.06.2014, the PSC has sent advice memo to the petitioner for appointment as lecturer in Government College, and on 03.06.2014, she resigned from the CPI(M) party. On 26.05.2014, the petitioner has been appointed as the lecturer in Government College. It seems that altogether 20 witnesses have been cited as charge witnesses in the Annexure-II final report. The learned Senior Counsel has pointed out that none of those witnesses has stated with regard to any overt act as

committed by the petitioner. The learned Public Prosecutor has pointed out that CW2 has mentioned the name of the petitioner also in his statement. CW2 is none other than the husband of CW1. According to him, in the statement, certain persons entered the courtyard of the house and he has mentioned the name of the petitioner as one of such persons who had entered the courtyard. He has no case that apart from such an entry, the said entry made by the petitioner was for any unlawful purpose or that she had committed any such overt acts alleged in this case. Apart from that stray sentence in which the name of the petitioner is also included in the statement of CW2, no other specific overt acts are alleged against the petitioner. All the other witnesses, including CW1, have no case that either the petitioner has reached the spot of incident or has done anything in the matter. The only non-bailable offence alleged in this case is the one under Section 354 IPC. Being a lady, the said offence cannot be attributed on the

petitioner. It seems that A1 is associated with CPI(M) party and some of the sympathizers of the party were involved in the incident. The defacto complainant had not cared to vacate the building, even though it was sold to another person, of whom A1 is the power of attorney holder. It seems that the inclusion of the petitioner in the array of the accused at the fag end of the investigation, that too only through Annexure-II final report is ill-motivated and merely on account of political rivalry. Her name does not find a place in the first information report at all.

6. On going through the prosecution records, I do not find that a conviction can be entered as against the petitioner, even if the trial is conducted against the petitioner. Matters being so, this is a fit case wherein the proceedings against the petitioner in C.C.1278/2012 on the basis of Annexure-II final report in Crime No.1206/2011 of the Adoor Police Station, can be quashed.

In the result, this CrI.M.C. is allowed and the

proceedings against the petitioner alone in C.C.1278/2012 pending before the Judicial First Class Magistrate's Court, Addor, on the basis of Annexure-II final report in Crime No.1206/2011 of the Adoor Police Station, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge