

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

Crl.MC.No. 103 of 2015

**C.C.NO.1231/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
NEYYATINKARA**

PETITIONER(S)/7TH ACCUSED :

**USHA, AGED 44 YEARS,
D/O.SULOCHANA DEVI, KRISHNA VILASOM VEEDU, MULLOOR,
MULLOR P.O., VIZHINJAM VILLAGE, THIRUVANANTHAPURAM.**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S) :

**1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

**2. SUB INSPECTOR OF POLICE,
NEYYATTINKARA POLICE STATION,
NEYYATTINKARA - 695 121.**

BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- A: COPY OF THE FIR & COMPLAINT OF VILLAGE OFFICER IN CRIME 406/09 OF NEYYATTINKARA POLICE STATION.**
- B: COPY OF THE REPORT REMOVING THE NAME OF THE 6TH ACCUSED IN CRIME NO. 406/09 OF NEYYATTINKARA POLICE STATION.**
- C: ATTESTED COPY OF THE SALE DEED NO. 323/06 EXECUTED BY PETITIONER IN FAVOR OF MINI DATED 23.02.2006.**
- D: COPY OF COMPLAINT IN C.C.NO.1231/2013 PENDING BEFOPRE JFCM-I, NEYYATTINKARA.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

=====

CRL.M.C. No.103 of 2015

=====

Dated this the 1st day of September, 2015

ORDER

The petitioner is the 7th accused in C.C.No.1231 of 2013 of the Judicial First Class Magistrate's Court-I, Neyyattinkara, which was filed as a complaint alleging offences under Sections 12 and 10 read with Section 20 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

2. The allegation against the petitioner is that she being the owner of the property situated at the river bank, has caused the illegal removal of sand from the river bank.

3. According to the petitioner, she had sold the said property to the 2nd accused in the year 2006, as is evident

from Annexure C sale deed and thereafter, she was not in possession or enjoyment of the property. The crime has been registered in the year 2009.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The learned Public Prosecutor has also conceded that the property was sold by the petitioner to the 2nd accused in the year 2006. The crime was registered against the petitioner and the complaint was also filed only because of the fact that the property still continues in the *Thandaper* account of the petitioner. When the property was sold by the petitioner in the year 2006, the complaint as against the petitioner is not valid as it was filed in the year 2011. The criminal liability cannot be fastened to the petitioner solely because of the fact that the *Thandaper* and the mutation were not changed.

6. On hearing either side and on going through the facts and circumstances of the case, this Court is satisfied that the proceedings as against the petitioner through Annexure D complaint in C.C.No.1231 of 2013 of the Judicial First Class Magistrate's Court-I, Neyyattinkara are liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure D complaint in C.C.No.1231 of 2013 of the Judicial First Class Magistrate's Court-I, Neyyattinkara, so far as it relates to the petitioner, is quashed.

Sd/-

B. KEMAL PASHA
JUDGE

DSV/2/9/15