

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

Crl.MC.No. 161 of 2015 ()

MC.NO. 281/2014 OF SUB DIVISIONAL MAGISTRATE COURT, FORT KOCHI,
ERNAKULAM DISTRICT

PETITIONER/COUNTER PETITIONER :

V.P. RASHEED,
AGED 61 YEARS, S/O.LATE PAREED KHAN, KAYYA MANZIL
MAROTTICHODU, SANTHI NAGAR COLONY, NEAR N.H. BYEPASS
EDAPPALLY, ERNAKULAM.

BY ADVS.SRI.SHAIJAN C.GEORGE
SRI.M.TAJITH
SRI. REKHA.S.
SMT.SAJITHA GEORGE

RESPONDENT(S) :

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

2. SUB DIVISIONAL MAGISTRATE,
FORT KOCHI - 682 002.

3. SUB INSPECTOR OF POLICE
THRIKKAKARA POLICE STATION,
ERNAKULAM - 682 120.

R1 TO R3 BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 26-10-2015,
ALONG WITH CRL.MC.NO. 162/2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Mn

...2/-

Crl.MC.No. 161 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE-1: THE PRELIMINARY ORDER UNDER SEC.107 OF THE CR.P.C. IN
M.C.NO.281/14.**

**ANNEXURE-2: TRUE COPY OF THE REPORT BY THE 3RD RESPONDENT
ANNEXED WITH THE FIR.**

RESPONDENT(S)' ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

B. KEMAL PASHA, J.

.....
CRL.M.C. Nos. 161 and 162 of 2015
.....

Dated this the 26th day of October, 2015

ORDER

Petitioners are challenging Annexure-1 orders in both the Crl.M.Cs. Petitioner in Crl.M.C.No.161/2015 is the father of the petitioner in Crl.M.C.No.162/2015. Through Annexure-1 orders, proceedings have been initiated against the petitioners under Section 107 Cr.P.C. by the learned Sub Divisional Magistrate, Fort Kochi through M.C.Nos.281/14 and 282/14.

2. It is alleged that Crime No.1418/2013 was registered against the petitioners for the offences punishable under Sections 294(b) and 332 IPC read with Section 34 IPC. They have allegedly restrained and obstructed the Income Tax officials, while a raid was being

conducted at the house of the petitioners. The amounts seized in the said raid was handed over to the petitioners for keeping it in safe custody. It is alleged that the said amount was taken away by the petitioners thereby committing criminal breach of trust, for which Crime No.1474/2013 of the Thrikkakara Police Station was registered for the offences punishable under Sections 461, 462 and 406 IPC read with Section 34 IPC.

3. It is alleged that petitioners had tortured and harassed CW3 by demanding dowry and has caused bodily harm to the father of CW3, for which Crime No.250/2014 of the Thrikkakara Police Station was registered for the offences punishable under Sections 498A and 323 IPC read with Section 34 IPC. The earlier two crimes are presently pending trial.

4. The above cases are the only cases registered against the petitioners. There is nothing to believe that there is reasonable apprehension on the part of the police or

satisfaction on the part of the learned Sub Divisional Magistrate that there is likelihood of breach of the peace or commission of offence against public tranquility, from the part of the petitioners. Annexures-1 proceedings have been initiated only on the basis of the registration of the above crimes against the petitioners. Annexure-1 orders do not reveal any sufficient reason to have an apprehension that there is likelihood of breach of the peace or commission of offence against public tranquility by the petitioners. Matters being so, Annexure-1 orders in both these CrI.M.Cs. are liable to be quashed.

In the result, these CrI.M.Cs. are allowed and Annexure-1 orders in M.C.Nos.281/14 and 282/14 of the Sub Divisional Magistrate's Court, Fort Kochi, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge