

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

Crl.MC.No. 327 of 2015 ()

(CRL.MC.NO. 3142/2014 OF ADDL. SESSIONS COURT - VII, THIRUVANANTHAPURAM
DATED 26-12-2014)

CRIME NO. 1435/2014 OF CHIRAYINKEEZHU POLICE STATION ,
THIRUVANANTHAPURAM

PETITIONER(S)/PETITIONERS :

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1. S.VIJAYAN, AGED 67 YEARS,
S/O.SOMAN,'MAKOM', MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 2. K.K.PADMAKUMARI, AGED 60 YEARS,
D/O.KUNJUKRISHNAN, RESIDING AT 'MAKOM',
MANCHADIMOODU,CHIRAYINKEEZHU,
THIRUVANANTHAPURAM.
 3. V.SYAM, AGED 34 YEARS,
S/O.VIJAYAN, 'MAKOM', MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 4. V.SAMBU, AGED 32 YEARS,
S/O.VIJAYAN, RESIDING AT 'MAKOM', MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 5. V.SADASIVAN, AGED 60 YEARS,
S/O.VISWANATHAN, VAYALITHITTA, MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 6. P.V.SUDHA, AGED 58 YEARS,
D/O.VAMADEVAN, VAYALITHITTA VEEDU, MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 7. S.ARUN, AGED 30 YEARS,
S/O.SADASIVAN, VAYALITHITTA, MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 8. S.PRADEEPKUMAR, AGED 36 YEARS,
S/O.SUKUMARAN, 'THIRUVONAM', MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.
 9. K.K.PADMAVATHI,AGED 52 YEARS,
D/O.KUNJUKRISHNAN, PUTHUVAL PUTHEN VEEDU,
MANCHADIMOODU, CHIRAYINKEEZHU, THIRUVANANTHAPURAM.

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10. S.BABY, AGED 49 YEARS,
D/O.SREEDHARAN, VAYALTHITTA VEEDU,
MANCHADIMOODU, CHIRAYINKEEZHU,
THIRUVANANTHAPURAM.
11. KRISHNAMMA, AGED 52 YEARS,
W/O.DAMODHARAN, VAYALTHITTA VEEDU, MANCHADIMOODU,
CHIRAYINKEEZHU, THIRUVANANTHAPURAM.

BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENT/COMPLAINANT :

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JIBU P. THOMAS

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

sts

Crl.MC.No. 327 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX-A1. TRUE COPY OF THE ORDER DATED 26/12/2014 OF ADDL.SESIONS
COURT-VII (VACATION COURT), THIRUVANANTHAPURAM.**

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

B. KEMAL PASHA, J.

Crl.M.C.No.327 OF 2015

Dated this the 22nd day of January, 2015

O R D E R

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This is a case in which a wall constructed by the de facto complainant was allegedly demolished by the petitioners herein. They had approached the Sessions Court, Thiruvananthapuram during vacation for anticipatory bail under Section 438 Cr.P.C.

2. The case was registered as Crime No.1435/2014 of the Chiraynikkeezhu Police Station for the offences under Sections 143, 147, 148, 188, 447, 427 and 379 IPC. It is seen that when unnecessary obstructions were caused by the petitioners for the construction of the compound wall, the de facto complainant had to approach this Court and police protection was obtained. The compound wall was constructed with police protection. It is alleged that, thereafter the petitioners had demolished the entire compound wall thereby causing a wrongful loss of Rs.73,000/- to the de facto complainant.

3. Even then, the learned vacation Judge has chosen to grant anticipatory bail to the petitioners through the impugned order, one of the conditions imposed by the court below is that each one of the petitioners shall deposit an amount of Rs.6,000/- before the Judicial First Class Magistrate Court-I, Attingal, within 15 days from the date of order, that is, 26.12.2014, by way of a provision for compensating the defacto complainant. According to the petitioners, they are coolie workers and they have no such funds with them to deposit before the court below.

4. They ought to have thought of their financial stringency while they were engaged in demolishing the compound wall. It seems that even when the compound wall was constructed by the de facto complainant with police protection as granted by this Court, the learned Additional Sessions Judge was magnanimous in granting anticipatory bail to the petitioners. The petitioners are not entitled to any further leniency in the matter. Any of the conditions imposed by the court below is not

liable to be lifted. At the same time, the petitioners are granted time till 30.1.2015 to comply with the conditions imposed by the court below.

With the said observations, this Crl.M.C. is dismissed.

**sd/-**  
**B.KEMAL PASHA, JUDGE.**

ps/22/1/2015

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//True copy//

PA to Judge