

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Crl.MC.No. 506 of 2015 ()

**CRA 669/2010 of SESSIONS COURT, THIRUVANANTHAPURAM
CMP 4193/2014 IN CC 749/2008 of JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, ATTINGAL**

PETITIONER/COMPLAINANT/APPLICANT :

**S.SREEKUMAR
S/O.K.SREEDHARAN PILLAI, P.K.M.BUILDING, MAITHRI NAGAR,
VENJARAMOOD, THIRUVANANTHAPURAM.**

BY ADV. SRI.T.R.RAJAN

RESPONDENTS/COUNTER PETITIONERS/ACCUSED & STATE :

- 1. M.B.JAYACHANDRAN @ KUMARAN,
S/O.BHASKARA PILLAI, SANATHALAYAM, MANALIMUKKU,
VENJARAMOODU P.O., THIRUVANANTHAPURAM DIST., 695607.**
- 2. M.B.REJIKUMAR
S/O.BHASKARA PILLAI, SANATHALAYAM, MANALIMUKKU,
VENJARAMOODU P.O., THIRUVANANTHAPURAM DIST., 695607.**
- 3. P.GSUDHAKARAN PILLAI
S/O.GOPALA PILLAI, GOKULAM, MAIVALLIKONAM,
MAITHRI NAGAR, VENJARAMOODU P.O.,
THIRUVANANTHAPURAM DISTRICT, PIN 695607.**
- 4. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN 682031.**

R4 BY PUBLIC PROSECUTOR SMT.S. HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE-A1:** TRUE COPY OF THE JUDGMENT DATED 23/7/2010 OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT-II, ATTINGAL IN CALENDAR CASE NO.1242/2006.
- ANNEXURE-A2:** TRUE COPY OF THE APPEAL MEMORANDUM IN APPEAL NO.669/2010 ON THE FILES OF THE SESSIONS COURT, THIRUVANANTHAPURAM FILED BY THE PETITIONER.
- ANNEXURE-A3:** TRUE COPY OF THE COMPLAINT IN CALENDAR CASE NO.749/2008 ON THE FILES OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT-II, ATTINGAL FILED BY THE PETITIONER.
- ANNEXURE-A4:** TRUE COPY OF THE PETITION IN CMP NO.4193/2014 IN CC NO.749/2008 ON THE FILES OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT-II, ATTINGAL FILED BY THE PETITIONER.
- ANNEXURE-A5:** CERTIFIED COPY OF BY ORDER DATED 20/11/2014 OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT-II, ATTINGAL IN CMP NO.4193/2014 IN CC NO.749/2008.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

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P.UBAID, J.
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**Crl.M.C No.506 of 2015**  
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Dated this the 30th March, 2015

ORDER

The petitioner herein stands convicted and sentenced under Section 324 of Indian Penal Code by the Judicial First Class Magistrate Court-II, Attingal in C.C No.1242 of 2006. The appeal filed by him against the conviction and sentence before the appellate court as Crl.A No.669 of 2000 is now pending before the VIth Additional Sessions Court, Thiruvananthapuram. The petitioner herein had made a complaint against the de facto complainant in C.C No.1242 of 2006. The crime registered thereon happened to be referred. He filed a protest complaint before the Magistrate, and on the said complaint, the learned Magistrate took cognizance. It is now pending as C.C No.749 of 2008. The petitioner's grievance is that the trial court wrongly disposed of the case, wherein he is the accused, when the legal position is that both the cases should be simultaneously tried and disposed of. He seeks orders from this Court under Section 482 of the Code of

Criminal Procedure staying further proceedings in C.C No.749 of 2008 till the Criminal Appeal filed by him is disposed of.

2. Of course, the petitioner's request for remand will have to be considered by the appellate court. He will have to convince the appellate court that the two cases are really case and counter, and that the two cases must be simultaneously tried and disposed of. If such a compelling situation is there, the appellate court, where the petitioner's appeal is pending, will have to pass appropriate orders on the petitioner's request for remand. The learned Additional Sessions Judge has now reported that the appeal is ripe for disposal and that he requires at least three months to dispose of the appeal. In such a situation, there can be a direction to dispose of the appeal accordingly, and till the disposal of the appeal, further proceedings in C.C 749 of 2008 in the trial court can be stayed. As already observed, the petitioner will have to make his request before the appellate court, if the two courses are really case and counter.

In the result, this petition is disposed of as follows:

(a) The learned Additional Sessions Judge VI, Thiruvananthapuram will dispose of Crl.A No.669 of 2010 brought by the petitioner herein by 30.6.2015.

(b) As regards the request of the petitioner for simultaneous trial, or remand for the said purpose, the petitioner will have to make request before the appellate court, and the appellate court will pass appropriate orders on the request.

(c) Till Crl.A No.669 of 2010 is disposed of on merits, further proceedings in C.C No.749 of 2008 before the Judicial First Class Magistrate Court-II, Attingal will stand stayed.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge