

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

Crl.MC.No. 633 of 2015 ()

CC. NO.131/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA.

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PETITIONERS/ACCUSED 2 TO 4:

1. AZHAKALEKSHMI @ AZHUKUKANAKALEKSHMI,
AGED 38 YEARS, D/O.LATE KARISHNASWAMI PILLAI,
SAPSONS GATE, THUMPOLY,ALAPPUZHA,
NOW RESIDING AT W/O.MUTHU, 22/169,
12TH MAIN ROAD, JAWAHAR COLONY,
ANNA NAGAR, CHENNAI.
2. MURALIDHARAN NAIR, AGED 60 YEARS,
S/O.VELAPPAN PILLAI, PUTHUSSERI VEEDU,
VADACKAL MURI, ALAPPUZHA.
3. FASSALUDHIN, AGED 62 YEARS,
S/O.UMMER, VELIMPURAYIDOM,
INDIRA JUNCTION, ALAPPUZHA.

BY ADV. SRI.G.PRIYADARSAN THAMPI.

RESPONDENTS/STATE AND LEGAL HEIRS OF ORIGINAL COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
(REPRESENTING SUB INSPECTOR OF POLICE,
ALAPPUZHA NORTH POLICE STATION, ALAPPUZHA).
2. SARATH, AGED 37 YEARS,
S/O.LATE SANTHAMMAL, 'CHITHRA POURNAMI',
NAZARETH ROAD, ALUVA, ERNAKULAM DISTRICT.
3. RANJANA, AGED 33 YEARS,
W/O.PADMAKUMAR, 'CHITHRA POURNAMI',
NAZARETH ROAD, ALUVA, ERNAKULAM DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS.
R2 & R3 BY ADV. SMT.BHAVANA VELAYUDHAN.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A1:** TRUE COPY OF THE REFER REPORT IN CRIME NO.118/2007 OF ALAPPUZHA NORTH POLICE STATION DATED 08/03/2007.
- ANNEXURE A2:** TRUE COPY OF THE COMPLAINT IN CMP. NO.2428/2008 FILED BY THE COMPLAINANT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA.
- ANNEXURE A3:** TRUE COPY OF THE DEATH CERTIFICATE OF THE ORIGINAL COMPLAINANT ISSUED BY COCHIN CORPORATION.
- ANNEXURE A4:** TRUE COPY OF THE LEGAL HEIR CERTIFICATES.
- ANNEXURE A5:** TRUE COPY OF THE DECREE DATED 17-06-2014 IN OS. NO.212/2007 OF SUB COURT, ALAPPUZHA AND THE AGREEMENT BETWEEN THE PARTIES.
- ANNEXURE A6:** TRUE COPY OF THE DEATH CERTIFICATE OF ORIGINAL COMPLAINANT'S HUSBAND ISSUED BY ALUVA MUNICIPALITY.
- ANNEXURE A7:** TRUE COPY OF THE ORDER DATED 30-07-2014 IN CC. NO.497/2008 CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA.
- ANNEXURE A8:** AFFIDAVIT SWORN BY THE 2ND RESPONDENT.
- ANNEXURE A9:** AFFIDAVIT SWORN BY THE 3RD RESPONDENT.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

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Crl.M.C. No.633 2015
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Dated this the 20th day of February, 2015

ORDER

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The accused in C.C.131/2014 of the Chief Judicial Magistrate's Court, Alappuzha are the petitioners herein. They have come up under Section 482 Cr.P.C. to get all proceedings in C.C.131/2014 as against the petitioners, quashed.

2. C.C.131/2014 has arisen from Annexure-A2 private complaint. After the filing of the private complaint, it seems that the matter in issue was settled between A1 to A4 in the private complaint and the *defacto complainant*, who are close relatives. The *defacto complainant* has not cared to adduce any evidence under Section 244 Cr.P.C. and consequently, the learned Magistrate has chosen to discharge A1 to A4 under Section 245(1) Cr.P.C. At that stage, A5 to A7, who are the petitioners herein, had not

participated in the proceedings and, therefore, the case against them was split up. Presently, their case is being proceeded with as C.C.131/2014.

3. Heard learned counsel for the petitioners, the learned counsel for respondents 2 and 3 and learned Public Prosecutor.

4. According to the petitioners, the matter has been amicably settled between them and the legal heirs of the *defacto complainant*. The *defacto complainant* died leaving her husband and the two deponents, who are respondents 2 and 3 herein, as her legal heirs. Subsequently, the husband of the *defacto complainant* also died. Copy of his death certificate has been produced. Respondents 2 and 3 have entered appearance and filed separate affidavits affirming that the matter has been amicably settled between them and the petitioners. The learned counsel for respondents 2 and 3 also endorses the fact that the affidavits have been sworn in by respondents 2 and 3 on their own volition.

5. When all the disputes have been settled between the parties and as respondents 2 and 3 have no complaints against the petitioners, and the other accused are discharged, it is only just and expedient in the interest of justice to quash the proceedings referred to above.

In the result, this Crl.M.C. is allowed and Annexure-A1 final report in Crime No.118/2007 of Alappuzha North Police Station as against these petitioners and all further proceedings based on it in C.C.131/2014 pending before the Chief Judicial Magistrate's Court, Alappuzha, are hereby quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/20/02

// True Copy //

PA to Judge