

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

Crl.MC.No. 659 of 2015 ()

**AGAINST THE JUDGMENT IN C.C.no.281/2009 of JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, ALUVA
CRIME NO. 755/2009 OF KALAMASSERY POLICE STATION, ERNAKULAM**

PETITIONER(S)/2ND ACCUSED :

**K.A.PAREED, AGED 70 YEARS,
S/O.IBRAHIM, KAROTHKUDI HOUSE, KANDANTHARA, PERUMBAVUR,
ERNAKULAM DIST**

**BY ADVS.SRI.V.T.RAGHUNATH
SMT.C.V.RAJALAKSHMI**

RESPONDENT(S)/COMPLAINANT AND STATE:

**1. ANEESHA SHAMSHAD, AGED 34 YEARS,
D/O.VSM.MAKKAR, VAYALODAN HOUSE, THIFUNILATH ROAD,
COCHIN UNIVERSITY PO, KALAMASSERY, ERNAKULAM DIST - 683 104**

**2. STATE OF KERALA REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA-682031**

R2 BY PUBLIC PROSECUTOR SMT.LISHA.M.G.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

A1- COPY OF THE LETTER DATED 27.5.2009 BY R1 TO A1

A2- COPY OF THE COMPLAINT DATED 14.5.2009 BY R1

A3- COY OF THE FINAL REPORT IN CC NO.281/09 OF JFCM II ALUVA

A4- COPY OF THE ANTICIPATORY BAIL ORDER DATED 5.8.09 IN BAIL APP. 2932/09

A5- COPY OF THE CMP 2222/12 FOR FURTHER INVESTIGATION DATED 20.9.2012

A6- COPY OF THE ORDER IN CMP 2222/12 DT. 4.10.12 OF JFCM II ALUVA

**A7- COPY OF THE REPORT OF THE INVESTIGATING OFFICER FILED BEFORE THE JFCM
II ALUVA**

**A8- COPY OF THE REPORT OF THE INVESTIGATING OFFICER FILED BEFORE THE JFCM
II ALUVA**

**A9- COPY OF THE REPORT OF THE INVESTIGATING OFFICER DT. 25.3.2013 FILED
BEFORE THE JFCM II ALUVA**

RESPONDENT(S)' EXHIBITS

NIL

//True Copy//

P.A. To Judge

Bb

RAJA VIJAYARAGHAVAN V, J.

Crl.M.C.No.659 of 2015

Dated this the 29th day of June, 2015

O R D E R

This is a petition filed under Section 482 of Code of Criminal Procedure.

2. The petitioner is the second accused in C.C.No.281/2009 on the file of the Judicial First Class Magistrate Court-II, Aluva. The said case arose out of Crime No.755/2009 of Kalamassery Police Station which was registered based on the information furnished by the first respondent who is the daughter -in -law of the petitioner.

3. When notice was issued to the first respondent, the same was returned with the endorsement by her father that the first respondent is staying abroad and therefore, service could not be completed.

4. When the matter came up, the counsel for the petitioner has submitted that, though the prayer in the Criminal Miscellaneous Case is for quashing the final report, he is not

pressing for the said relief at this stage. According to him, the petitioner, a senior citizen will be satisfied if necessary directions are issued to expedite the proceedings in C.C.No.281/2009 of the Judicial First Class Magistrate Court-II, Aluva or in the alternative to issue a direction to the Judicial First Class Magistrate Court-II, Aluva to dispose of the case in a time bound manner.

5. It was pointed out by the learned counsel for the petitioner that originally the final report in Crime No.755/2009 was submitted on 08.07.2009 and thereafter, based on the application filed by the first respondent, further investigation was ordered. Thereafter, the investigating officer has submitted 3 reports before the learned magistrate which has been produced as Annexures A7 to A9. In Annexures A7 to A9, the investigating officer who is the Sub Inspector of Police, Kalamassery Police Station has reported before court that in spite of grant of sufficient opportunities to produce materials, the de facto complainant has not appeared before him. It is also stated in Annexure 9 which is dated 25.03.2013 that due to the non co-operation of the de facto complainant, nothing further is to be reported and also sought for accepting the earlier report and to

proceed with the matter.

6. The learned counsel for the petitioner has submitted that the third accused has already expired and the petitioner, who is the 2nd accused is aged 70 years. According to him, the matter is being protracted by the de facto complainant on purpose. It is on this basis that it is contented that the petitioner would be satisfied if necessary directions are given to expedite the trial proceedings or in the alternative to direct the learned magistrate to dispose of the matter in a time bound manner. In the nature of the reliefs that I am proposed to grant, I do not think that notice to the second respondent is necessary.

7. It is clear that Annexure A3 final report was originally submitted before the learned magistrate on 08.07.2009. As is evident from Annexure 9, the investigating officer has reported that there is nothing more to investigate in the above matter. By keeping the file of the above proceedings perpetually pending, the accused will be prejudiced. It is for the de facto complainant to appear before court and cooperate with the trial proceedings.

8. In the result, I am of the considered view that the prayer of the petitioner herein to issue the direction to the

learned magistrate to proceed with the trial and to dispose it of in a time bound manner is only to be allowed. By allowing such a petition , no prejudice is likely to result.

In the result, this Criminal Miscellaneous Case is allowed and the learned Judicial First Class Magistrate-II, Aluva is directed to expedite the trial proceedings in C.C.No.281/2009 which arose out of Crime No.755/2009 of Kalamassery Police Station and to dispose it of at any rate within a period of 8 months from the date of this order.

Sd/-
**RAJA VIJAYARAGHAVAN V,
JUDGE.**

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[True copy]

P.A to Judge