

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

Crl.MC.No. 1012 of 2015

CP 32/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ERATTUPETTA.
CRIME NO. 771/2014 OF ERATTUPETTA POLICE STATION, KOTTAYAM.

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PETITIONER(S)/ACCUSED:

1. FAIZAL BASITH @ ASHRAFF,
S/O. ABDUL KAREEM, NADAKKAL, ERATTUPETTA.
2. AFZAL, S/O. KAEEM,
CHEMMANACHALIL (ARYASSERIL) VEEDU,
NADAKKAL, ERATTUPETTA.
3. IJAZ, S/O. KAREEM,
CHEMMANACHALIL (ARYASSERIL) VEEDU,
NADAKKAL, ERATTUPETTA.
4. NASEEB, S/O. KAREEM,
CHEMMANACHALIL (ARYASSERIL) VEEDU,
NADAKKAL, ERATTUPETTA.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENT(S)/COMPLAINANT & STATE:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
ERATTUPETTA POLICE STATION, ERATTUPETTA - 686 121.
3. THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM - 695 001.
4. SAHIR, S/O. NISSAR, PERAKATHSSERIL VEEDU,
NADAKKAL, ERATTUPETTA - 686 121.

R1 TO R3 BY BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R4 BY ADVS. SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1 - TRUE COPY OF THE FINAL REPROT IN CRIME NO. 771/2014 OF ERATTUPETTA POLICE STATION.
- ANNEXURE A2 - TRUE COPY OF THE SUMMONS ISSUED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT, ERATTUPETTA IN CP NO. 32/2014.
- ANNEXURE A3 - TRUE COPY OF THE FINAL REPORT IN CRIME NO. 363/2012 OF ERATTUPETTA POLICE STATION.
- ANNEXURE A4 - TRUE COPY OF THE FINAL REPORT IN CRIME NO. 1217/2014 OF ERATTUPETTA POLICE STATION.
- ANNEXURE A5 - TRUE COPY OF THE STATEMENT OF THE FATHER OF THE DE-FACTO COMPLAINANT DT. 02.8.14.
- ANNEXURE A6 - TRUE COPY OF THE STATEMENT OF THE DE-FACTO COMPLAINANT DT. 21.6.14.
- ANNEXURE A7 - TRUE COPY OF THE COMPLAINANT DT. 20.1.14 SUBMITTED BY THE PETITIONERS BEFORE 3RD RESPONDENT.

RESPONDENT(S)' ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

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Crl.M.C. No.1012 of 2015 D
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Dated this the 4th day of November, 2015

ORDER

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Petitioners are the accused in CP.32/2014 of the Judicial First Class Magistrate's Court, Erattupetta, which has arisen from Crime No.771/2014 of Erattupetta Police Station for the offences punishable under Sections 447, 341, 323, 324 and 308 read with Section 34 IPC. The precise request from the part of the petitioners is to have a further investigation in the matter.

2. Heard learned counsel for the petitioners, learned counsel for the 4th respondent and learned Public Prosecutor.

3. The arguments forwarded by the learned counsel for the petitioners are matters relating to the merits of the case based on evidence. A proper decision with regard to the merits or otherwise of the allegations against the petitioners cannot be taken by this Court at this stage. The petitioners, being the accused, cannot interfere with the investigation of the matter. If there is any evidence to be adduced in the matter from the part

of the petitioners, the petitioners will get sufficient opportunity at the stage of defence evidence.

4. The petitioners cannot successfully challenge the investigation of this case at this stage and seek for a further investigation in the matter. In case there is any latches on the part of the investigating officer, the petitioners may be able to encash it during trial. Apart from that, it is not possible to have a further investigation in the matter at the instance of the petitioners. In case any technicalities are involved, it is open to the petitioners to approach the concerned Sessions Court, at the stage of Section 227 Cr.P.C.

With the said observations, this CrI.M.C. is disposed of.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/04/11

// True Copy //

PA to Judge