

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Crl.MC.No. 1067 of 2015 ()

AGAINST THE ORDER IN CMP NO5330/13 IN ST 1174/2012 of
J.M.F.C.,KUNNAMANGALAM DATED 15-03-2014
CRIME NO. 763/2011 OF KUNNAMANGALAM POLICE STATION , KOZHIKODE

PETITIONER(S)/PETITIONERS:

1. MANIKKAM, AGED 69 YEARS
W/O.UPPERAN, MAYANGODU HOUSE, N.I.T.PO
POOLAKKODE AMSOM DESOM, KOZHIKODE DISTRICT.
2. CHANDRAN, AGED 43 YEARS
S/O.UPPERAN, MAYANGODU HOUSE, N.I.T.PO
POOLAKKODE AMSOM DESOM, KOZHIKODE DISTRICT.
3. PRAMOD, AGED 35 YEARS
S/O.UPPERAN, MAYANGODU HOUSE, N.I.T.PO
POOLAKKODE AMSOM DESOM, KOZHIKODE DISTRICT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT(S)/RESPONDENTS/COMPLAINANT & STATE:

1. SUB INSPECTOR OF POLICE,
KUNNAMANGALAM POLICE STATION, KOZHIKODE-673571.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.
3. MUHAMMED,, AGED 42 YEARS
S/O.AHAMMADKUTTY MUSLIAR, MAYANGOTT HOUSE
POOLAKKOD AMSOM, KALANTHODE, KOZHIKODE-673507.
4. FATHIMA,, AGED 63 YEARS
W/O.KOYAMOIDEEN, MAYANGOTT HOUSE, POOLAKKOD AMSOM
KALANTHODE, KOZHIKODE-673507.
5. RAMLA,, AGED 63 YEARS
W/O.KOYAMOIDEEN, MAYANGOTT HOUSE, POOLAKKOD AMSOM
KALANTHODE, KOZHIKODE-673507.

R1 & R2 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1067 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS :

ANNEXURE-A COPY OF THE F.I.STATEMENT WHICH LEADS TO THE REGISTRATION OF S.T.NO.1174/2012 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,KUNNAMANGALAM

ANNEXURE-B COPY OF THE PETITION FILED BY THE IST PETITIONER DATED 16.7.2013 WHICH IS NUMBERED AS C.M.P.5330/2013 IN S.T.1174/2012 ON THE FILE FO THE JUDICIAL FIRST CLASS MAGISTRATE COURT,KUNNAMANGALAM

ANNEXURE-C COPY OF THE POLICE CHARGE DATED NIL WHICH IS NOW PENDING AS C.C.581/2011 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,KUNNAMANGALAM

ANNEXURE-D COPY OF THE F.I.R.IN CRIME NO.763/2011 OF KUNNAMANGALAM POLICE STATION

ANNEXURE-E COPY OF THE JUDGMENT DATED 20.1.2015 IN O.P.(CRL.)312/2014

ANNEXURE-F COPY OF THE ORDER DATED 15.3.2014 IN C.M.P.5330/2013 IN S.T.1174/2012 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,KUNNAMANGALAM.

RESPONDENT(S)' EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1067 of 2015**  
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Dated this the 13th July, 2015

ORDER

The petitioners herein are the prosecution witnesses Nos.1, 2 and 5 in S.T No.1174 of 2012 of the Judicial First Class Magistrate's Court, Kunnamangalam. Pending the proceedings, the 1st petitioner herein filed an application before the learned Magistrate for a direction to order further investigation on the ground that a person mentioned as accused in the First Information Statement was omitted from the array of accused by the police when final report was submitted. The learned Magistrate dismissed the application, however, with the observation that the request will be considered during trial under Section 319 Cr.P.C. The said order dated 15.3.2014 in C.M.P. No.5330 of 2013 is under challenge in this proceeding.

2. On hearing both sides, and on a perusal of the impugned order, I find that the application for further investigation was rightly dismissed by the learned Magistrate, because the facts alleged in the petition are not

sufficient for a direction to order further investigation under Section 173 (8) Cr.P.C. If the petitioners are confident and definite regarding the involvement of any other person mentioned as accused in the First Information Statement, they can very well give evidence in the trial court in terms of the First Information statement, and if the said evidence is found convincing by the learned Magistrate regarding the involvement of somebody else in the incident, the trial court can very well act under Section 319 Cr.P.C, and bring the said person as additional accused. The petitioners or even the learned Assistant Public Prosecutor can move the trial court under Section 319 Cr.P.C, if such evidence comes during trial regarding the involvement of any other person in the commission of the alleged offence

With these observations, this Crl.M.C is disposed of.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge