IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.MC.No. 1127 of 2015 ()

S.C.NO.240/2009 OF THE DISTRICT & SESSIONS COURT,THRISSUR
CRIME NO. 18/2007 OF PERAMANGALAM POLICE STATION, TRISSUR DISTRICT

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PETITIONERS/ACCUSED:

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1. **RAJESH, AGED 29 YEARS**
   S/O.KRISHNAN, PALLIKKATTVALAPPIL HOUSE
   PUZHAKKAL VILLAGE, MUTHUVARA KIZHAKKUMURI DESOM
   THRISSUR DISTRICT.

2. **KRISHNAN, AGED 68 YEARS**
   S/O.KUNJU, PALLIKKATTVALAPPIL HOUSE, PUZHAKKAL VILLAGE
   MUTHUVARA KIZHAKKUMURI DESOM, THRISSUR DISTRICT.

3. **DEVAKY, AGED 59 YEARS**
   W/O.KRISHNAN, PALLIKKATTVALAPPIL HOUSE
   PUZHAKKAL VILLAGE, MUTHUVARA KIZHAKKUMURI DESOM
   THRISSUR DISTRICT.

   BY ADV. SRI.K.A.SATHEESA BABU

RESPONDENTS/COMPLAINANT:

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1. **THE STATE OF KERALA, REP. BY PUBLIC**
   PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. **THE DEPUTY SUPERINTENDENT OF POLICE**
   KUNNAMKULAM, REP. BY PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

   BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE I : FIR DATED 17-01-2007.

ANNEXURE II : FINAL REPORT DATED 18-11-2007.

ANNEXURE III : POSTMORTEM CERTIFICATE DATED 18-01-2007.

ANNEXURE IV : SUICIDE NOTE.

ANNEXURE V : MAGISTERIAL ENQUIRY REPORT DATED 30-10-2007.

ANNEXURE VI : ORDER IN CRL.M.C.294/2007 BY SESSIONS COURT, THRISSUR.

RESPONDENTS' EXHIBITS

ANNEXURE I : COPY OF THE STATEMENTS GIVEN BY THE CW1, CW6 & CW8

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TRUE COPY P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1127 of 2015

Dated this the 6th day of October, 2015

O R D E R

The petitioners herein are the accused in S.C.No.240/2009 of the Court of Sessions, Thrissur involving offences under Sections 498 A and 306 IPC. The case relates to the commission of suicide by one Raji. The crime was initially registered by the police under Section 174 Cr.P.C., on getting information regarding the commission of suicide. Later, during investigation the police collected materials indicating that the commission of suicide was in fact abetted by the husband and in-laws. In such a situation report was filed under Sections 498A and 306 IPC. The petitioners seek orders quashing the prosecution on the ground that the prosecution does not have definite materials proving the case, and also that the suicide note seized by the police does not indicate anything regarding the cause of death.

2. On hearing both sides, and on a perusal of the materials including the report of magisterial enquiry and the alleged suicide note, I find that the grounds urged by the petitioner will have to be looked into by the trial court during trial. The prosecution relies on materials like statements given by the material witnesses regarding the cause of death. Just because the suicide note does

not indicate anything regarding cause of death, the prosecution cannot be quashed under Section 482 Cr.P.C. When the prosecution is armed with some materials. The trial court will have to examine those materials and decide whether those materials are sufficient to proceed under Sections 498A and 306 IPC. When such materials are there, it will be inappropriate and illegal to quash the prosecution under Section 482 Cr.P.C. However, if charge is not framed by the trial court, the petitioners can make an application for discharge, if they are confident that they can obtain discharge. In the present circumstances where some materials are there, this Court is not inclined to quash the prosecution under Section 482 Cr.P.C. Just because the report of magisterial enquiry does not contain any positive indication regarding cause of death, or just because the suicide note does not contain any such indication. The prosecution cannot be quashed under Section 482 Cr.P.C. when the prosecution has some other materials to substantiate the allegations.

In the result, this Crl.M.C. is dismissed in limine, without being admitted to files, without prejudice to the right of the petitioners to apply for discharge before the trial court.

Sd/-
P. UBAID, JUDGE

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// True Copy // P.A. to Judge