

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

Crl.MC.No. 1197 of 2015

**CRL.M.P.NO.128/2014 IN SC.NO.574/2013 OF PRINCIPAL ASSISTANT SESSIONS
COURT, IRINJALAKUDA.
CRIME NO. 435/2003 OF IRINJALAKUDA POLICE STATION, THRISSUR.**

PETITIONER/ACCUSED:

**LENIN,
S/O KALLIDAMBIL KUTTAPPAN,
TRAMWAY LANE, CHALAKUDY.**

**BY SRI.P.VIJAYA BHANU (SENIOR ADVOCATE)
ADVS. SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A : CERTIFIED COPY OF THE ORDER DATED 23.1.2015 IN
CRL.M.P.NO.128 OF 2014 IN S.C.NO.574 OF 2013 OF THE COURT
OF THE PRINCIPAL ASSISTANT SESSIONS JUDGE,
IRINJALAKUDA.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

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Crl.M.C. No.1197 of 2015
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Dated this the 16th day of September, 2015

ORDER

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Heard learned counsel for the petitioner and learned Public Prosecutor.

2. Petitioner is the 3rd accused in Crime No.435/2003 of Irinjalakuda Police Station registered for the offence punishable under Section 402 IPC. As the petitioner was absconding, the case against him was split up and presently, numbered as SC.574/2013. He has moved an application seeking discharge under Section 227 Cr.P.C. before the court below as Crl.M.P.128/2014. Through Annexure-A detailed order, the court below has chosen to dismiss the Crl.M.P. and to prepare the court charge. The same is being challenged.

3. It seems that all the co-accused in the crime were tried before the court below, and they were convicted and

sentenced. Even though the conviction and sentence were challenged in appeal, that appeal was also dismissed.

4. The present complaint of the petitioner is that along with the dismissal of the application seeking discharge, the court below has prepared the charge also as against the petitioner. At the same time, the charge has not been read over and explained to the petitioner and the plea was not recorded. In such a context, it can only be treated as a form of charge and not really a court charge. For proceeding further in the matter, the court below has to read over and explain the charges to the petitioner and record the plea. Matters being so, the impugned order does not suffer from any illegality, irregularity, impropriety or jurisdictional error and the same is not liable to be interfered with.

In the result, this Crl.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)