

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

Crl.MC.No. 1205 of 2015 ()

CRIME NO. 795/2014 OF KONGAD POLICE STATION , PALAKKAD

PETITIONER(S):

SHAMEER AGED 30 YEARS
S/O.ABDUL KHADAR, MARKASSERY, VELIKKAD PO
MUNDOOR, PALAKKAD

BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENT(S):

STATE OF KERALA
REP. BY SUB.INSPECTOR OF POLICE
KONGADU POLICE STATION, PALAKKAD
REP. BY PUBLI PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
24-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1205 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: COPY OF THE CRIME NO.795/2014 OF KONGADU POLICE STATION,
PALAKKAD

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1205 of 2015**  
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Dated this the 24th March, 2015

ORDER

A crime registered under Section 379 I.P.C and under Sections 20 and 23 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (for short 'Sand Act') is under challenge. It is sought to be quashed on the ground that the Police has wrongly incorporated Section 379 I.P.C in the crime, and that cognizance on police report is not possible under the Sand Act. As regards Section 379 I.P.C, this is not the stage to decide on it.

2. The learned Public Prosecutor submits that the Police has already submitted final report in court. If prosecution under Section 379 I.P.C is not possible or not sustainable, the petitioner can very well plead for discharge. It is not known, whether the court has in fact taken cognizance under Section 379 I.P.C. As regards the other objection, the petitioner's contention is not acceptable because in view of the amended provisions under Section 25 of the Sand Act, cognizance is possible

even upon a police report under Section 173 (2) Cr.P.C. It was the prior position before amendment that cognizance could be made only on a complaint made by the authorised officer. After 25.11.2012 cognizance is possible even on police report. This petition to quash the F.I.R does not deserve any consideration. If at all the petitioner is aggrieved by the final report, he can pursue appropriate remedies possible under the law as regards the final report.

With these observations, this Crl.M.C is closed.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge