

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

Crl.MC.No. 1548 of 2015

**CC 2167/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -I, KASARAGOD.
CRIME NO. 56/2014 OF KASARAGOD POLICE STATION, KASARGOD.**
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PETITIONER/ACCUSED NO:

**RISHAN ALI T.M., AGED 20 YEARS,
S/O.MEHMOOD, RESIDING AT T.S.HOUSE,
ANANGOOR, KASARAGOD VILLAGE,
KASARAGOD P.O.**

BY ADV. SMT.REENA ABRAHAM

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 31.**
- 2. STATION HOUSE OFFICER,
KASARAGOD POLICE STATION,
KASARAGOD - 671 121.**

BY ADDL. DIRECTOR OF PROSECUTION SRI.TOM JOSE PADINJAREKARA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

Crl.MC.No. 1548 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE-A1: TRUE COPY OF FIR IN CRIME NO.56/2014 OF KASARAGOD
POLICE STATION.**

**ANNEXURE-A2: TRUE COPY OF FINAL REPORT IN CRIME NO.56/2014 OF
KASARAGOD POLICE STATION.**

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Crl.M.C No.1548 of 2015

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Dated this the 15th day of June, 2015

O R D E R

The prayer in the instant Crl.M.C is to quash the impugned criminal proceedings arising out of Annexure A2 final report/ charge sheet, filed in Annexure A1 crime No.56 of 2014 of the Kasaragod police station which has led to the pendency of Calender Case, C.C No.2167/14 on the file of the Judicial First Class Magistrate Court-I, Kasaragod. The main ground projected is that even if the entire allegations in the impugned final report is taken as correct, still no offence under Section 140 of the IPC would lie and therefore all the other offences would also not lie as against the petitioner. This Court is of the considered opinion that a prayer of this nature need not be entertained by this Court in this case by invoking the extra ordinary remedy under Section 482 of the Code of Criminal Procedure. If indeed as the petitioner has contended that no offence under Section 140 of the IPC is disclosed even from the averments in the impugned final report / charge sheet, then it is

for the petitioner to seek the remedy of discharge before the court below concerned, because the court below would also have an occasion to appreciate aspects relating to this contention in a better manner by exercising its powers under the Code of Criminal Procedure to consider the prayer for discharge. Accordingly, in case the stage for seeking the plea of discharge has not yet been crossed, then it is open to the petitioner to file appropriate application before the court below concerned to seek the remedy of discharge. In such case, the court below will consider such plea and after hearing both sides will take a decision thereon, in accordance with law.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE