

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Cr1.MC.No. 1652 of 2015

CRL.M.P NO.205/2015 IN S.C NO.471/2007 OF THE ADDL. SESSIONS
COURT I, THIRUVANANDAPURAM
CRIME NO. 167/2004 OF PALODE POLICE STATION, THIRUVANANDAPURAM

PETITIONERS/ACCUSED:

1. GAUTHA KUMAR,
S/O.GANGADHARAN PILLAI, BLOCK NO.32, JAWAHAR COLONY,
ANAKUDI MURI, PANGODE VILLAGE
2. SUMESH, S/O.SUNDARESAN,
PP XIII 52-C, JAWAHAR COLONY, ANAD MURI,
PERINGAMMALA VILLAGE
3. SUNIL KUMAR @ KUNJUMON,
S/O.SOMAN, HOUSE NO.52, JAWAHAR COLONY
ANAD MURI, PERINGAMMALA VILLAGE.
4. RANJAN, S/O.VASUDEVAN,
RAJITHA BHAVAN, T.B.G.R.I JUNCTION,
PANGODE VILLAGE.
5. GIREESH, S/O.RANJAN
RANJITHA BHAVAN, T.B.G.R.I JUNCTION, PANGODE VILLAGE.
6. BIJU @ KARINAGAM BIJU, S/O.NEELAMBARAN,
AAYIRAVALLIPARA BLOCK NO. 974, ANAKUDI MURI,
PANGODE VILLAGE
7. KRISHNARAJ, S/O.JEEVANRAJ, VATTAKARIKKAKOM,
BLOCK NO. 974
ANAKUDI MURI, PANGODE VILLAGE
8. SUDHEESH, S/O.SUNDARESAN, PP XIII 52-C,
JAWAHAR COLONY,
ANAD MURI, PERINGAMMALA VILLAGE
9. RINEESH KUMAR, S/O.SWARNAPPAN,
BLOCK NO.21, T.B.G.R.I JUNCTION, ANAKUDI MURI,
PENGODE VILLAGE.
10. BIJU, S/O.APPU,
SENANIPURAM BLOCK NO.28, JAWAHAR COLONY,
ANAKUDI MURI,
PENGODE VILLAGE.

11. RAJESH, S/O.VASU,
NIRMALYAM, BLOCK NO.14, JAWAHAR COLONY,
ANAD MURI, PERINGAMMALA VILLAGE VILLAGE.
12. SAJI KUMAR, S/O.RAVI,
ANCHANAKUZHI COLONY, ANAKUDI MURI, PENGODE VILLAGE.
13. SAJAYA KUMAR, S/O.THULASI, SAJAYA BHAVAN,
ANAKUDI MURI, PENGODE VILLAGE
14. KISHOR, S/O.GOPINATHAN NAIR,
MARUTHARA VEEDU, PANKATTUKONAM, PACHA
NANDIYODE, KURUPUZHA VILLAGE.
15. KURUPPA SWAMI @ MURUKAN, S/O.SUBRAMANIYAN PILLAI,
MEKKUMKARA VEEDU, NO.NP/III/125, PLAVARA,
ANAD MURI, PALODE VILLAGE

BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN

RESPONDENT/COMPLAINANT & STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM -31.

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1652 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE I- COPY OF THE PETITION FILED BY THE PETITIONERS/ACCUSED
NUMBERED AS CRL.M.P.NO.205/2015 IN S.C.NO.471/2007 BEFORE THE
ADDL. SESSIONS JUDGE-I, THIRUVANANTHAPURAM DATED 28.1.2015.

ANNEXURE II- COPY OF THE ORDER OF THE ADDL. SESSIONS JUDGE-I,
THIRUVANANTHAPURAM IN CRL.M.P NO.205/2015 IN S.C.NO.471/2007
DATED 12.2.2015.

ANNEXURE III- A TYPED COPY OF THE STATEMENT FILED BY THE
PETITIONERS/ACCUSED UNDER SECTION 313(5) OF CR.P.C IN
S.C.NO.471/2007 ON THE FILES OF THE COURT OF ADDL. SESSIONS
JUDGE -I, THIRUVANANTHAPURAM

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1652 of 2015

Dated this the 26th day of March, 2015

O R D E R

The petitioners herein are the accused in S.C No.471/2007 before the I Additional Sessions Court, Thiruvananthapuram. After the prosecution evidence was closed, the accused was called upon to adduce defence evidence. They accordingly, made an application to summon a witness to disprove the case of prosecution as regards the First Information Statement and the signature therein. The further request is to send the First Information Statement for expert comparison. The First Information Statement was given by one Philip. He died pending the prosecution. His wife Annamma Philip is cited as a witness by the prosecution. The prosecution marked the first information statement and also the FIR through the concerned police officer. The case of the defence is that the First Information Report will have no value because the FI Statement was not infact given by Philip. The accused now wants to prove this aspect.

2. On hearing the both sides I find that for this limited purpose, the accused can be allowed to summon the witness. But the other request to send document for comparison cannot be now allowed. In the particular circumstances such a comparison by an expert will not serve any purpose. However, if the accused are really confident that the signature in the first information statement is not that of deceased Philip, they can prove it by summoning the appropriate person. The petitioners seek orders quashing the order passed by the trial court on 12.2.2015 in Crl.M.P No.205/2015. I find that the request can be allowed in part as observed above.

In the result this Criminal Miscellaneous Case is allowed in part. The petitioners are allowed to summon the witness Annamma Philip, to prove the defence case as regards the genuineness of the first information statement. The other request to send the statement for expert comparison will stand disallowed.

**P.UBAID
JUDGE**

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