

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

Crl.MC.No. 1687 of 2015 ()

AGAINST THE ORDER IN CMP 8312/2012 of J.M.F.C., KODUNGALLUR
CRIME NO. 865/2006 OF CBCID, ERNAKULAM , ERNAKULAM

PETITIONER(S)/ACCUSED:

P.K.SHAMEER AGED 31 YEARS
S/O.MOIDEENKUTTY, KALLUPARAMBIL PANIKKAVEETIL HOUSE
VATTEKKAD DESOM, ORUMANAYUR VILLAGE, CHAVAKKAD TALUK
THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

RESPONDENT(S):

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

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1687 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-A: TRUE COPY OF THE ORDER DT.26.05.2014 IN WP(C)
NO.8420/2014 OF THIS HON'BLE COURT.

ANNEXURE-B: TRUE COPY OF THE ORDER DTD.26.9.2012 IN CMP NO.8312/2012
OF THE LEARNED JFCM, KODUNGALLUR.

ANNEXURE-C: TRUE COPY OF THE APPLICATION FILED BY THE CRIME BRANCH
OFFICIAL REQUESTING ORDERS FROM THIS COURT FOR SUBJECTING THE
PETITIONER TO UNDERGO THE POLYGRAPH TEST.

ANNEXURE-D: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER TO
ANX.C APPLICATION.

ANNEXURE-E: TRUE COPY OF THE PROCEEDINGS OF THE LEARNED JFCM,
KODUNGALLUR IN CRIME 865/2006 OF THE KODUNGALLUR POLICE STATION.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.

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**Crl.M.C No.1687 of 2015**

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Dated this the 1st April, 2015

ORDER

The petitioner herein is said to be a suspect in Crime No.865 of 2006 of the Kodungallur Police Station registered under Section 302 of the Code of Criminal Procedure. The Investigating Officer made an application before the Judicial First Class Magistrate Court, Kodungallur for permission to conduct polygraph test on the suspect. Annexure-C is the copy of the application. During the proceedings, the learned Magistrate passed an order on 23.01.2015 directing production of the suspect on 23.3.2015. The petitioner's grievance is that such order was passed by the learned Magistrate without hearing him in detail as to whether a witness can be suspected or compelled to undergo such test. Annexure-D is the objection filed by the petitioner herein, and Annexure-E is the proceedings of the learned Magistrate containing the order dated 23.1.2015. As required by this Court, the learned Magistrate submitted a report. This report shows that the application filed by the Investigating Officer

stands not disposed of. This shows that a decision is yet to be taken after the appearance of the suspect. The report indicates that the learned Magistrate will take decision on the request only after hearing the suspect. Another application is also pending for permission to conduct polygraph test on another suspect. That is not the subject matter herein. The petitioner's concern is that if the application made by the Investigating Officer happens to be allowed without hearing him in detail on the legal aspects involved in the issue, it will cause very serious hardship and harm to him. No doubt, a decision will be taken by the learned Magistrate only after hearing the suspect on the legal aspects involved.

In the result, this Crl.M.C is disposed of with direction to the court below, that decision on the application made by the Investigating Officer for polygraph test on the petitioner shall not be taken, without hearing the parties thoroughly and effectively, on the factual and legal aspects involved in the matter.

**Sd/-
P.UBAID
JUDGE**

ma /True copy/

P.S to Judge