

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN**

**WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936**

**Crl.MC.No. 791 of 2013**  
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**AGAINST THE JUDGMENT IN C.C.NO.374/2011 of JUDICIAL FIRST CLASS  
MAGISTRATE COURT, NILAMBUR**

**PETITIONER(S)/2ND ACCUSED:**  
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**C.K.NAZAR,  
SUB INSPECTOR OF POLICE, VADAKARA.**

**BY ADVS.SRI.T.G.RAJENDRAN  
SRI.T.R.TARIN**

**RESPONDENT(S)/COMPLAINANT/STATE:**  
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**1. ABDUL KAREEM  
S/O. MUHAMMED, AGED 44 YEARS, IRIYAKKALATHIL HOUSE  
CHUNGATHARA, NILAMBUR - 679 101.**

**2. STATE  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.P.VENUGOPAL (1086/92)  
R2 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 28-01-2015,  
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Bb**

**K. Ramakrishnan, J.**

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**Crl.M.C.No.791 of 2013**

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**Dated this, the 28<sup>th</sup> day of January, 2015.**

**ORDER**

After arguing for sometime, the Counsel for the petitioner submitted that he may be permitted to withdraw this petition with liberty to raise the question of sanction before the Magistrate Court at a later stage and if such objection is raised, that may be directed to be considered by the magistrate in accordance with law. The request is allowed and permission is granted and the Criminal Miscellaneous Case is dismissed as withdrawn with above liberty. If the petitioner raises the question of want of sanction for launching prosecution against him which he is entitled to raise at any time during the course of the proceedings as per the decision of the Hon'ble Supreme Court (**Raj Kishor Roy V. Kamleshwar Pandey [AIR 2002 SC 2861]** and **Prakash Vs. State of Kerala [2011 (2) KLT 158]**) and if such an objection is raised, the court below is directed to consider and pass appropriate orders on the basis of evidence available in accordance with law. The petitioner is also entitled to raise all the contentions raised by him in this

petition before the trial court and the trial court is directed to consider the same and pass appropriate orders in accordance with law. If he files an application for personal exemption, since the identity is not in dispute, the court below is directed to consider the application for personal exemption during the trial and pass appropriate orders in the application filed by him before that court.

Communicate this order to the court below at the earliest.

Sd/-  
**K.Ramakrishnan, Judge.**

Bb

*[True copy]*

*P.A to Judge*