

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN

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

Cr1.MC.No. 794 of 2013 ()

AGAINST THE ORDER IN MC 174/2012 of SUB DVL.MAGI.COURT,
TRIVANDRUM DATED 15.9.2012.

PETITIONER(S)/COUNTER PETITIONER:

MANU
S/O.MOHANAN NAIR, CHERUVILA PUTHEN VEEDU
MANNOTTUKONAM, KOTTUKAL, THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT(S)/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
VIZHINJAM, THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 26-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 794 of 2013

APPENDIX

PETITIONER'S EXHIBITS :

ANNEXURE A : PHOTOCOPY OF THE ORDER DATED 15.9.2012 IN M.C.NO.174/12
OF THE SUB DIVISIONAL MAGISTRATE, THIRUVANANTHAPURAM.

ANNEXURE B : PHOTOCOPY OF THE INTERIM ORDER IN Cr1.M.C.NO.263/13
DATED 16.1.2013.

RESPONDENT'S EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

V.K.MOHANAN, J.

Crl.M.C.No.794 of 2013

Dated this the 26th day of March, 2015.

O R D E R

The petitioner is the counter petitioner in Annexure A which is a proceedings issued under section 107 of Cr.P.C. by the Sub Divisional Magistrate-Thiruvananthapuram. In this proceedings under section 482 of Cr.P.C., the contention of the petitioner is that Annexure A is liable to be quashed since the Sub Divisional Magistrate has miserably failed to furnish the details of the information received by him under section 111 of Cr.P.C.

2. Heard Sri.Shajin S.Hameed, the learned counsel appearing for the revision petitioner and the learned Public Prosecutor.

3. The learned counsel for the petitioner submitted that this Court had occasion to consider identical issues involved in M.C.No.173/12 of the very same Sub Divisional

Magistrate-Thiruvananthapuram and the proceedings initiated against the counter petitioner in that case has been quashed on the strength of the decisions reported in **Girish P. and others v. State of Kerala and another (2009(4) KHC 929)** and **Henry Vijayakumar v. State of Kerala (2009(4) KLT 495)**. It is the contention of the learned counsel for the petitioner that the Sub Divisional Magistrate has miserably failed to disclose the substance of the information received by him under section 111 of Cr.P.C. In Annexure A order, no such information is disclosed and therefore Annexure A is legally and factually unsustainable. The learned counsel has handed over to me a copy of the order dated 18.8.2014 of this Court in Crl.M.C.No.263/13. On a perusal of the said order it appears that in the above referred Crl.MC., the challenge is against M.C.No.173/12 of the Sub Divisional Magistrate court, Thiruvananthapuram, an identical order dated 15.9.2012. On a perusal of Annexure A, which is the

subject matter of the present M.C., it appears that in this case also, the learned Sub Divisional Magistrate has miserably failed to disclose the substance of information received by him so as to invoke section 107 of Cr.P.C. The crimes referred in M.C.Nos.173/12 and 174/12, which is the order sought to be quashed in the present Crl.M.C., are one and the same. Besides the above legal defect, it is also relevant to note that the impugned order in this case was passed as early as on 15.9.2012 and thereafter more than 2 years are over.

Under the above circumstances, following the order of this Court dated 18.8.2014 in Crl.M.C.No.263/13, this M.C. is also disposed of and Annexure A order is set aside. Crl.M.C. is disposed of accordingly.

Sd/-
V.K.MOHANAN,
Judge.

ami/

//True copy//

P.A.to Judge