

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

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937**

**Crl.MC.No. 2133 of 2015 ()**

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CC 1434/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM  
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**PETITIONER/ACCUSED:**

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NANDINI.C, AGED 52 YEARS, W/O.DHARMAJAN  
DELEEP BHAVANAM, ILYAPPANKULAM MURI  
VALLIKUNNAM VILLAGE HAVING OFFICE ADDRESS  
AT NILAMEL BUILDING, KATTANAM, PALLICKAL P.O.  
BHARANIKKAVU, MAVELIKKARA-690503.**

**BY ADV. SRI.ABDUL JALEEL.A**

**RESPONDENTS/STATE AND DEFACTO COMPLAINANT:**

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- 1. STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.**
  - 2. RAJENDRANATH, AGED 47 YEARS  
S/O.PARAMESWARAN, EERIKKAL THARAYIL  
VALLIKUNNAM MURIYIL, VALLIKUNNAM VILLAGE  
BHARANIKKAVU, MAVELIKKARA-690503.**
  - 3. ASHARAF, AGED 45 YEARS  
S/O.IBRAHIMKUTTY, KUZHUVELIL VEETIL  
ILYPPANKULAM MURI, KATTANAM VILLAGE, PALLICKAL P.O.  
BHARANIKKAVU, MAVELIKKARA-690503.**

**R2,R3 BY ADV. SRI.P.R.HARIKUMAR  
R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12-10-2015, THE  
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**APPENDIX**

**PETITIONER'S EXHIBITS**  
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**ANNEXURE 1: TRUE COPY OF THE CHARGE SHEET OF THE KAYAMKULAM POLICE STATION IN CC 1429/13 FILED BEFORE THE LEARNED JFCM, KAYAMKULAM.**

**ANNEXURE 2: TRUE COPY OF THE CHARGE SHEET OF THE KAYAMKULAM POLICE STATION IN CC 1434/2013 FILED BEFORE THE LEARNED JFCM, KAYAMKULAM.**

**ANNEXURE 3: TRUE COPY OF THE COMPLAINT GIVEN BY THE PETITIONER TO SI OF POLICE, VALLIKUNNU DT.28-8-2013.**

**ANNEXURE 4: TRUE COPY OF THE MAHAZAR PREPARED BY THE POLICE.**

**RESPONDENTS' EXHIBITS**  
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**NIL**

**TRUE COPY**

**P.A. TO JUDGE**

**SD**

P. UBAID, J.

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Crl.M.C.No.2133 of 2015  
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Dated this the 12<sup>th</sup> day of October, 2015

O R D E R

The petitioner herein is the sole accused in C.C.No.1434/2013 of the Judicial First Class Magistrate Court, Kayamkulam. The said case involves the offences under Sections 294B, 323 and 324 IPC. The person who sustained injuries in the alleged incident is one Rajendranath. The petitioner seeks orders quashing the said prosecution on the ground that the said case is in fact a counterblast to another prosecution initiated by her against the injured Rajendranath and others. The said case is now pending as C.C.No.1429/2013 in the same court.

2. On hearing both sides, I find that the prosecution cannot be quashed under Section 482 Cr.P.C., on the ground that another case is pending against the 2<sup>nd</sup> respondent and others on a complaint made by the petitioner herein. It is not known whether the two are exactly case and counter. Any way, it is a matter to be decided by the trial court on the basis of materials, whether one is counterblast to the other. That aspect cannot be considered and decided by the High Court under Section 482 Cr.P.C. In both the cases, the prosecution has some materials to

substantiate the allegations. The petitioner has produced copy of the wound certificate relating to her, but she has conveniently omitted to produce copy of the wound certificate relating to the 2<sup>nd</sup> respondent herein. There is no explanation for this. When some materials are there to substantiate the allegations, it would be inappropriate to quash one prosecution under Section 482 Cr.P.C. Whether one prosecution is a counterblast to the other, or whether the two cases will have to be simultaneously tried, are all the matters to be looked into by the trial court. This is not a case where the prosecution does not have any basis. A case of assault is revealed by the complaint and other materials. I find that this petition is liable to be dismissed in limine, however without prejudice to the right of the petitioner to make application for discharge.

In the result, this Crl.M.C. is dismissed in limine, without being admitted to files, without prejudice to the right of the petitioner to make application for discharge.

Sd/-

P. UBAID, JUDGE

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