

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

Crl.MC.No. 1569 of 2014 ()

AGAINST THE ORDER IN CMP 3/2007 of SUB
DVL.MAGISTRATE,PERINTHALMANNA DATED 03-07-2013

PETITIONER(S)/PETITIONERS:

ABDUL BASHEER
S/O.MOHAMMED, AMABAKKAL HOUSE, PULIKKAL P O
MALAPPURAM DIST

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU
SMT.T.JISHARAJ

RESPONDENT(S)/COMPLAINANT:

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1. MUNDOTTIL ANBDUL GAFOOR.
S/O.MOIDEEN, PANDIKASALA, ANTHIYOORKUNNU
PULIKKAL P O, MALAPPURAM
 2. STATE OF KERALA
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM

R1 BY ADV. SRI.C.M.MOHAMMED IQUABAL
R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1569 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1:-COPY OF THE ORDER OF THE SUB DIVISIONAL MAGISTRATE DTD
3/7/2013 WAS SERVED BY THE SUB DIVISIONAL MAGISTRATE ON 14/12/2013 IN
CMP NO 3 OF 2007

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1569 of 2014**  
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Dated this the 2nd March 2015

ORDER

The petitioner herein is the respondent in a proceeding brought under Section 133 of the Code of Criminal Procedure. It was initially brought before the Executive Magistrate, Perinthalmanna. On formation of a new Taluk, the matter is now before the Sub Divisional Magistrate, Tirur. The final order passed by the Executive Magistrate under Section 138 of the Code of Criminal Procedure was set aside by the Court of Session, Manjeri and it is now being considered afresh by the Executive Magistrate. Pending further consideration, the petitioner herein filed an application to re-open the evidence. The object is to cross-examine the complainant again. Two Commissions were appointed to report whether any tree standing in the compound of the respondent will cause danger to the respondents. One is the Taluk Tahsildar, and other is the Agricultural Officer. These persons are competent to say about the present condition of the tree in

question. After their evidence, if felt necessary, the request of the petitioner can be allowed by the Executive Magistrate. Anyway, the matter is now pending consideration as directed by the Court of Session, and the Executive Magistrate is yet to take a decision afresh under Section 138 of the Code of Criminal Procedure. This Court feels it not proper and just to intrude into the process and give directions. Let the matter be appropriately enquired into, and let final orders be passed under Section 138 of the Code of Criminal Procedure. If the Executive Magistrate finds the absolute necessity of further cross-examination of the complainant after the examination of both the commissioners, who visited the site, the petitioner's request can be considered.

With these observations, this Crl.M.C is closed.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge