

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

Crl.MC.No. 2861 of 2015

**ORDER DTD.29.4.2015 IN CMP.50/2015 IN ST.NO.5/2010 & 81/2010 OF JUDICIAL FIRST
CLASS MAGISTRATE COURT - III, KOLLAM**
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PETITIONER(S)/ACCUSED:

**HARIHARAN PILLAI, AGED 60 YEARS,
S/O.SREEDHARAN PILLAI, THIRUVONAM, SAGARA NAGAR,
ULIYACOVIL, KOLLAM-8.**

**BY ADVS.SRI.S.ABHILASH
SMT.S.SEETHA
SMT.NIMA JACOB**

RESPONDENT(S)/STATE:

- 1. B.K.RAJEEV,
S/O.BALAN PILLAI, BRAINS COTTAGE,
KOLLAM NOW RESIDING AT CHANDRAGIRI GARDEN,
PATTATHANAM, KOLLAM.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADVS. SRI.C.RAJENDRAN
SRI.K.R.RANJITH
R2 BY PUBLIC PROSECUTOR SMT.P.MAYA**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
03-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE 1: THE COPY OF THE COMPLAINT IN ST 81/2010 ON THE FILE OF JFCM-III, KOLLAM.

ANNEXURE 2: THE CHIEF AFFIDAVIT PRODUCED BY THE COMPLAINANT IN ST 81/2010 BEFORE THE JFMC III, KOLLAM.

ANNEXURE 3: TRUE COPY OF COMPLAINT IN ST 5/2010.

ANNEXURE 4 : THE CHIEF AFFIDAVIT PRODUCED BY THE COMPLAINANT IN ST 5/2010 BEFORE THE JFMC III KOLLAM.

ANNEXURE 5 : THE COPY OF THE FIR AND FINAL REPORT IN CRIME NO.1496/2013 OF KOLLAM EAST POLICE STATION.

ANNEXURE 6: THE COPY OF THE CMP 50/2015 FILED IN ST 5/2010 AND 81/2010 BEFORE JFMC III, KOLLAM.

ANNEXURE 7 : THE COPY OF THE ORDER DT.29-4-2015 IN CMP 50/2015 ON THE FILE OF JFMC III, KOLLAM.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

B.KEMAL PASHA, J.

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Crl.M.C. No. 2861 of 2015

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Dated this the 3rd day of September, 2015

O R D E R

Petitioner is the accused in S.T.Nos.5/2010 and 81/2010 of the court below, for the offence punishable under Section 138 of the N.I.Act. In that case, evidence was over. It was at that time, the petitioner came to know about a refer report relating to the very same transaction. According to the petitioner, earlier, the complainant had filed a complaint alleging an offence punishable under Section 420 IPC and ultimately, the Police had referred the matter. The petitioner wants to produce that refer report and prove the same in the crime, for which, the petitioner filed CMP No.50/2015 before the court below. Through Annexure 7 order, the court below has dismissed the said C.M.P.

2. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent.

3. It is true that the request from the part of the petitioner was to summon the complainant, who is the 1st respondent herein, in order to prove such a refer report. The same is not permissible. The court below shall give an opportunity to the petitioner to file an application under Section 315 Cr.P.C for enabling the petitioner to examine himself for proving such a refer report.

With the said direction, this Crl.M.C is closed.

Sd/-
B.KEMAL PASHA, JUDGE

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