

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

Crl.MC.No. 1814 of 2014 ()

CC 33/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ALUVA

PETITIONER :

**VIJEESH.K.V., AGED 40 YEARS, S/O VIJAYAN,,
KUMBALATHU PARAMBIL, KAIPAMANGALAM DESOM,
KAIPANGALAM VILLAGE, KODUNGALLUR TALUK,
THRISSUR DISTRICT.**

BY ADV. SRI.BOBBYMATHEW KOOTHATTUKULAM

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. STATION HOUSE OFFICER,
KALAMMASSERY POLICE STATION,
RREPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 3. P.K.MOHANAN
EDAIAKKATTUPARAMBIL HOUSE, BINANIPURAM-683 502
ERNAKULAM DISTRICT.**

**R1 & R2 BY PUBLIC PROSECUTOR SMT. S. HYMA
R3 BY ADV. SRI.PRAKASH P.GEORGE
BY ADV. SRI.SADER E.REAZ**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 30-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 1814 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1: TRUE COPY OF THE COMPLAINT FILED BY THE 3RD
RESPONDENT TO THE ASST. COMMISSIONER OF POLICE
DATED 13.10.2012.**

**ANNEXURE A2: TRUE COPY OF FIR DATED 18.10.2012 IN CRIME
NO.2103 OF 2012.**

ANNEXURE A3: TRUE COPY OF CHARGE SHEET DATED 29.4.2013.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

P.UBAID, J.
~~~~~  
**Crl.M.C No.1814 of 2014**  
~~~~~  
Dated this the 30th March, 2015

ORDER

The petitioner herein is the 6th accused in C.C No.33 of 2014 of the Judicial First Class Magistrate's Court-II, Aluva. He seeks orders quashing the prosecution as against him under Sections 406 and 420 of Indian Penal Code.. The 3rd respondent herein is the de facto complainant. The learned counsel for the 3rd respondent submits that the complainant has no material to proceed against the petitioner herein, and that he has no objection to the case against the petitioner being quashed.

2. On a perusal of the materials, I find that the complaint or the final report does not contain any definite allegation against the petitioner herein except that the main accused was introduced by him. There is nothing in the final report to show the complicity of the petitioner in the alleged transaction. He was proceeded against without any definite basis. Anyway, now the de facto complainant has realised that in law, he cannot proceed against the

petitioner because he does not have any material to connect the petitioner with the prosecution. However, he wants to continue the prosecution against the other accused. Accepting the submissions made by the learned counsel for the 3rd respondent, I find that the present prosecution against the petitioner is liable to be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein as 6th accused in C.C No.33 of 2014 of the Judicial First Class Magistrate's Court-II, Aluva will stand quashed under Section 482 of the Code of Criminal Procedure. The said case will proceed against the other accused.

**Sd/-
P.UBAID
JUDGE**

ma

/True copy/

P.S to Judge