

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Crl.MC.No. 3212 of 2015

**C.C.NO.12 OF 2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
KOOTHATTUKULAM**

**C.C.NO.253 OF 2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
KOOTHATTUKULAM**

PETITIONER(S)/ACCUSED NOS.1 TO 6/ACCUSED NOS.1 TO 5 :

1. TOMY,
S/O.JOSEPH, KOCHUPURACKAL, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.
2. JOSE,
S/O.THOMAS, URAVANAMTHADATHIL, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.
3. GEORGE, AGED 45 YEARS,
S/O.THOMAS, PULIKIYIL HOUSE, ALAPURAM.
ELANJI VILLAGE, MOOVATTUPUZHA TALUK.
ERNAKULAM DISTRICT.
4. SIJO, S/O.SACARIA,
KULANGARAYIL, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK, ERNAKULAM DISTRICT.
5. JOBY, AGED 43 YEARS, S/O.GEORGE,
KANJIRATHINGAL HOUSE, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK, ERNAKULAM DISTRICT.
6. SIBI, AGED 47 YEARS,
S/O.ABRAHAM, KOLANGAL HOUSE, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.
7. SOMAN, AGED 35 YEARS,
S/O.KUTTAPPAN, KADANTHURUTHIL HOUSE, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.

8. **SAJU, AGED 42 YEARS,
S/O.KUTTAPPAN, KADANTHURUTHIL HOUSE, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.**
9. **GOERGE @ REJI, AGED 32 YEARS,
S/O.MATHEW, PUTHENPARAMBIL HOUSE, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.**
10. **GOORGE @ JIMMICHAN, AGED 42 YEARS,
S/O.THOMAS, PULUKKIYIL HOUSE, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.**
11. **JOHNSON, AGED 38 YEARS,
S/O.PAUL, KANJIRATHINGAL, ALAPURAM,
ELANJI VILLAGE, MOOVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.M.T.SURESHKUMAR
SRI.S.SANAL KUMAR
SMT.SMITHA PHILIPOSE**

RESPONDENT(S)/STATE :

1. **STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**
2. **ALEX MATHEW,
CHEMBETHIL, ILANJIKKARA, ILANJI VILLAGE,
MOVATTUPUZHA TALUK, ERNAKULAM DISTRICT.**
3. **ANNAMMA, AGED 56 YEARS,
W/O.ALEX MATHEW, ILANJIKKARA, ILANJI VILLAGE,
MOVATTUPUZHA TALUK, ERNAKULAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R2 TO R3 BY ADVS. SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 01-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1:** TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.497 OF 2012 DATED 01.10.2012.
- ANNEXURE A2:** TRUE COPY OF THE COMPLAINT DATED 24.09.2012 BEFORE JFCM-I, MOOVATTUPUZHA.
- ANNEXURE A3:** TRUE COPY OF THE FIR AND FIS DATED 09.09.2012 OF KOOTHATTUKULAM POLICE STATION IN FIR NO.450 OF 2012.
- ANNEXURE A4:** TRUE COPY OF THE FINAL REPORT DATED 12.12.2012 IN FIR NO.497/2012 OF KOOTHATTUKULAM POLICE STATION.
- ANNEXURE A5:** TRUE COPY OF THE FINAL REPORT DATED 05.11.2012 IN FIR NO.450 OF 2012 OF THE KOOTHATTUKULAM POLICE STATION WHICH IS NOW PENDING AS C.C.NO.253 OF 2014 ON THE FILE OF JFCM, KOOTHATTUKULAM.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

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CRL.M.C. No.3212 of 2015

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Dated this the 1st day of October, 2015

ORDER

A private complaint was filed by the 2nd respondent before the Judicial First Class Magistrate's Court, Moovattupuzha, alleging criminal acts on the part of the accused, which were committed on 09.09.2012 at 12 noon. It was further alleged that some other similar acts were repeated by the accused on 16.09.2012.

2. The complaint was referred to the Police under Section 156(3) Cr.P.C., on the basis of which, Crime No.497 of 2012 of the Koothattukulam Police Station was registered,

for the offences under Sections 143, 145, 147, 148, 188, 341, 441, 427 and 506(ii) IPC read with Section 149 IPC against all the counter petitioners in Annexure A2 private complaint.

3. Prior to that, the 3rd respondent herein, who is the wife of the 2nd respondent, furnished information to the Police regarding the incident occurred on 09.09.2012, on the basis of which Crime No.450 of 2012 was registered for the offences punishable under Sections 143, 147, 341, 447, 506 (ii) and 427 IPC read with Section 149 IPC. After the investigation, two Final Reports were filed. Final Report filed in Crime No.497 of 2012 is Annexure A4 and the Final Report filed in Crime No.450 of 2012 is Annexure A5.

4. It has come out that in Annexure A4 Final Report, mistakenly the incident is noted as the very same incident, which is the subject matter of Crime No.450 of 2012. It seems that the investigating officer has failed to take note of the fact that in the private complaint, the incidents occurred on both dates were shown.

5. Annexure A5 Final Report in respect of Crime No.450

of 2012 is confined to the incidents occurred on 09.09.2012 alone. In such a context, the investigating officer ought to have confined Annexure A4 in Crime No.497 of 2012 to the incidents occurred on 16.09.2012.

6. Matters being so, Annexure A4 requires correction, as there is mistake of facts in it, for which, Annexure A4 has to be quashed. Annexure A4 stands quashed. The investigating officer shall conduct a further investigation under Section 173 (8) Cr.P.C. in Crime No.497 of 2012 and file a further Final Report.

With the said direction, this Crl.M.C. is disposed of.

Sd/-

B. KEMAL PASHA
JUDGE

DSV/1/10/15

// True Copy //

P.A. To Judge