

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

Crl.MC.No. 2041 of 2014

CC 496/2014 OF JUDICIAL FIRST CLASS MAGISTRATE, PATHANAMTHITTA

.....

PETITIONER(S)/ACCUSED:

**M.R.MADHU BABU, AGED 38 YEARS,
CIRCLE INSPECTOR OF POLICE, PATHANAMTHITTA DISTRICT,
S/O.M.K.RAGHAVAN, RESIDING AT MADHU NIVAS,
KATTADY JUNCTION, KALAVOOR P.O.,
ALAPPUZHA DISTRICT - 688 522.**

BY ADV. SRI.M.G.SREEJITH

RESPONDENT(S)/STATE:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, HOME DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

*** ADDITIONAL R2 IMPEADED**

- 2. SRI.SUKU, AGED 39, S/O.E.K.VIJAYAN,
EDAYILAMURIYIL, THEKKEKKARA,
EDAPPARIYARAM, PARIYARAM MURI,
ELANTHUR VILLAGE, ELANTHOOR P.O.,
PATHANAMTHITTA - 689 643.**

*** IS IMPEADED AS ADDITIONAL R2 AS PER ORDER DTD.4.4.2014 IN
IN CRL.M.A.3245/2014.**

**R1 BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE P.
R2 BY ADVS. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
26-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE-A1.TRUE COPY OF THE SHOW CAUSE ISSUED IN WP(CRL.) NO.127/2014
DATED 24/3/2014 BY THIS HONOURABLE COURT TO THE PETITIONER
AND OTHER POLICE OFFICERS.**

**ANNEXURE-A2.TRUE COPY OF THE SHOW CAUSE NOTICE ISSUED BY THE JUDICIAL
1ST CLASS MAGISTRATE, PATHANAMTHITTA DATED 31/3/2014.**

**ANNEXURE-A3.TRUE COPY OF THE SUMMONS ISSUED TO THE PETITIONER IN
CC 496/2014.**

**ANNEXURE-A4.TRUE COPY OF THE COMPLAINT IN CC 496/2014 OF J.F.M.C.-I,
PATHANAMTHITTA.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P. UBAID, J.

Crl.M.C.No.2041 of 2014

Dated this the 26th day of March, 2015

O R D E R

The petitioner herein is a police officer. He has been facing prosecution before the Judicial First Class Magistrate Court-I, Pathanamthitta in C.C.496/2014, on a complaint made by the Additional 2nd respondent herein, who is a practicing lawyer. On the complaint, the learned Magistrate conducted enquiry as provided under the law and took cognizance. Simultaneously, with the summons issued from the court on cognizance, the learned Magistrate issued a show cause notice to the petitioner requiring him to show cause why he should not be detained in judicial custody to ensure a fair trial. Annexure-A2 produced herein is the show cause notice, and it is sought to be quashed under Section 482 Cr.P.C.

2. On hearing both sides, and on a perusal of the impugned show cause notice, I find that such a notice was issued by the learned Magistrate quite illegally. The notice does not show under what circumstance such a show cause notice was felt necessary. It does not also show under what provisions of the Code of Criminal Procedure such a notice was issued to the

petitioner. The proper procedure is to issue a summons, and in a warrant case, if the court finds the necessity of a non-bailable warrant, the court can issue such warrant at the first instance, for reasons recorded. Here, the learned Magistrate crossed all the limits, and unnecessarily and illegally issued a show cause notice to the petitioner requiring him to show cause why he should not be detained in custody, pending trial. Such a procedure is really unknown. I find that such a show cause notice is liable to be quashed.

In the result, this petition is allowed. Annexure-A2 show cause notice received by the petitioner from the Judicial First Class Magistrate Court-I, Pathanamthitta, will stand quashed.

Sd/-
P. UBAID, JUDGE

sd