

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

Crl.MC.No. 3557 of 2015 ()

**CRL.M.P.NO.5210/2013 IN C.C.NO.396/2012 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, THIRUVALLA**

PETITIONER/PETITIONER:

**K.BABY, S/O.KOCHUOMMEN,
BABITHA BHAVAN, ODANAVATTOM,
KOTTARAKKARA, KOLLAM -691 512**

**BY ADVS.SRI.S.SANTHOSH KUMAR
SMT.P.LISSY JOSE.**

RESPONDENTS/COUNTER PETITIONER AND STATE:

- 1. T.J.JOSE,
S/O.JOSEPH, THARAYIL, PADANADU,
CHENGANNUR, ALAPPUZHA DISTRICT -689 506**
- 2. PRINCIPAL,
CHRIST CENTRAL SCHOOL, MUTHOOR P.O, THIRUVALLA,
PATHANAMTHITTA DISTRICT -689 107**
- 3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031**

R3 BY PUBLIC PROSECUTOR SRI.C.K.SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 3557 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX A** **FINAL REPORT DATED 05/04/2012 IN C.C NO 396/2012 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA**
- ANNEX B** **TRUE COPY OF THE COMPLAINT IN CRL M.P NO.5210/2013 IN C.C NO 396/2012**
- ANNEX C** **TRUE COPY OF THE ORDER SHEET IN CRL M.P NO.5210/2013 OF JFMC, THIRUVALLA**
- ANNEX D** **CERTIFIED COPY OF THE ORDER DATED 04/09/2014 IN CRL M.P 210/2013 IN CC NO.396/2012 OF JFMC, THIRUVALLA**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

Crl.M.C.No.3557 Of 2015

Dated this the 29th day of June, 2015.

ORDER

The order under challenge is impugned Anx-D order rendered on 4.9.2014 on Crl.M.P.No.5210/2013 in C.C.No.396/2012 on the file of the Judicial First Class Magistrate Court, Thiruvalla. Crl.M.P.No.5210/2013 was filed by the petitioner, who was the sole accused in Crime No.1662/2011 of Thiruvalla Police Station for offences alleged under Secs.279, 337, 338 of the IPC. The sheet anchor made out by the petitioner in the said Crl.M.P. was that the case requires for a further investigation as the Investigating Officer has not conducted a fair investigation in the matter. The learned Magistrate as per Anx-D order refused the said prayer on the ground that investigation in Crime No.1662/2011 has already been completed which has led to the institution of C.C.No.396/2012 on the file of the above said court upon the submission of such Final Report after completion of

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investigation and no further action is made on and it is accordingly submitted by the learned counsel for the petitioner that it is in violation of the legal principles laid down by the Division Bench of this Court in the case case Shaji v. State of Kerala reported in 2003 (2) KLT 929 etc.

2. Heard Sri.S.Santhosh Kumar, learned counsel for the petitioner and the learned Public Prosecutor appearing for the 3rd respondent-State of Kerala.

3. Taking into account the aspect that no proper legal reasonings are discernible from Anx-D order passed by the learned Magistrate, it is ordered in the interest of justice that Anx-D order shall stand set aside. Crl.M.P.No.5210/2013 filed by the petitioner herein shall stand remitted back to the court below concerned for passing appropriate orders afresh after hearing the petitioner herein and the prosecution. The learned Magistrate shall take into account the Division Bench ruling in the case Shaji v. State of Kerala or any other court rulings that may be placed for consideration before the learned Magistrate. The learned

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Magistrate shall pass fresh orders as directed above within a period of two weeks from the date of production of a certified copy of this order.

With these observations and directions, the Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-