

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

Crl.MC.No. 3819 of 2015 ()

CC.NO. 973/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PALA

PETITIONER(S)/ACCUSED 1 & 2:

- 1. RAJU JOSEPH PULIKKUNNEL,
40/4 DODDAKENNELLY, SARJAPUR ROAD,
BENGALURU- 560 035, KARNATAKA STATE.**
- 2. P.S.SCARIA,
PULIKKUNNEL HOUSE, P.O ANJUMOORTHY- 678 682,
PALAKKAD DISTRICT, KERALA STATE.**

BY ADV. DR.VINCENT PANIKULANGARA

RESPONDENT(S)/COMPLAINANTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682 031.**
- 2. JOSEPH PULIKKUNNEL,
S/O. MICHAEL SCARIA, PULIKKUNNEL HOUSE,
P.O.EDAMATTOM -686 588, KOTTAYAM DISTRICT.**

R1 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX-A1:** CERTIFIED COPY OF COMPLAINT DT. 26/12/2013 FILED BY THE 2ND RESPONDENT IN PALA PS.
- ANNEX-A2:** CERTIFIED COPY OF FIR NO.2141/2013 DT: 27/12/2013 IN JFCM COURT-, PALA CC NO.973/2014.
- ANNEX-A3:** CERTIFIED COPY OF FINAL REPORT DT. 30/04/2014 IN CC NO.973/2014 IN JFCM COURT, PALA.
- ANNEX-A4:** CERTIFIED COPY OF THE ORDER SHEET IN CC NO.973/2014 IN JFCM COURT-I, PALA.
- ANNEX-A5:** TRUE COPY OF APPLICATION DT. 12/05/2015 SUBMITTED TO PIO, JFCM.
- ANNEX-A6:** TRUE COPY OF THE REPLY RECEIVED FROM PIO, JFCM-I DT. 25/05/2015.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 3819 of 2015
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Dated this the 24th day of June, 2015

O R D E R

It is pointed out that the offences alleged in this Crl.M.C. are under Sec.118(d) of the Kerala Police Act and Sec.66(A) of the Information Technology (I.T) Act r/w. Sec.120B of the I.P.C. The Apex Court in the celebrated case Shreya Singhal v. Union of India reported in 2015 (5) SCC 1 = AIR 2015 SC 1523 = 2015 (2) KLT 1 (SC) has already struck down the provisions contained in Sec.118(d) of the Kerala Police Act and Sec.66(A) of the I.T Act, as those provisions were declared to be unconstitutional, unenforceable and ultra vires. Prosecution solely for offence under Sec.120B (conspiracy) of I.P.C. will not be maintainable. Accordingly, the impugned criminal proceedings in this case are declared to be unenforceable and ultra vires. In terms of this finding, it is ordered in the interest of justice that the impugned criminal proceedings in this Crl.M.C. will stand quashed.

The Crl.M.C. stands finally disposed of as above.

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////True copy////

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

