

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

Cr1.MC.No. 2644 of 2014

AGAINST C.C NO.871/2014 OF THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE COURT, THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

HASEENA, AGED 48 YEARS,
D/O.JALALUDHEEN, T.C.33/2753, GAZALI HOUSE,
SREE PADMOM LANE, NETTAYAM WARD,
PEROORKADA VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENTS/STATE & CW1:

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1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
VANCHIYOOR POLICE STATION
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
 2. MOHAMMED YOOSUF, AGED 54 YEARS,
S/O.ALIYARU KUNJU, BARKATH MANZIL,
UNDAPARA JUNCTION,
KONNIYOOR MURI,
PERUMKULAM VILLAGE,
THIRUVANANTHAPURAM 695 102.

R2 BY ADV. SRI.T.A.UNNIKRISHNAN

R2 BY ADV. SRI.K.SATHEESH KUMAR

R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 2644 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNX.A - CERTIFIED COPY OF THE FINAL REPORT IN CC NO.871/2014 OF
THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT,
THIRUVANANTHAPURAM.

ANNX.B - CERTIFIED COPY OF THE FIR IN CRIME NO.19/2014 OF
VANCHIYOOR POLICE STATION.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.2644 of 2014

Dated this the 6th day of April, 2015

O R D E R

The petitioner herein is being prosecuted under Section 118(d) of the Kerala Police Act on the allegation that on 1.1.2014 she defied the authority of her junior superintendent when he asked her about transfer of some case records to some other court. The Junior Superintendent immediately filed a complaint before the police. It is not known whether it was with the permission of the judicial officer or not. Anyway, the police registered FIR under Section 118 (d) of the Kerala Police Act, and after investigation, submitted final report also under Section 118(d) of the Kerala Police Act. The petitioner seeks orders quashing the said prosecution on the ground that there is absolutely nothing in the final report or the FIR to constitute the offence punishable under Section 118(d) of the Kerala Police Act. Now the petitioner relies on the very latest decision of the Hon'ble Supreme Court in **Shreya Singhal v. Union of India (2015(2) KLT 1 SC)**. Section 66A of the Information Technology Act, and also Section 118(d) of the Kerala Police Act

now stand declared unconstitutional by the Hon'ble Supreme Court. Even otherwise, the final report does not contain the essentials of the offence under Section 118(d) of the Kerala Police Act. Of course, if the allegations are true, the petitioner will have to be dealt with appropriately by the department. Disciplinary action against her will have to be initiated by the Chief Judicial Magistrate after necessary enquiry. Quashing the prosecution in view of the Supreme Court decision will not stand in the way of such proceedings.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioner in C.C No.871/2014 of the Additional Chief Judicial Magistrate Court, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure. This order will not in any manner affect the disciplinary proceedings, if any, initiated against the petitioner.

**Sd/-
P.UBAID
JUDGE**

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