

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

Crl.MC.No. 3914 of 2015 ()

CRIME NO. 2614/2013 OF KAYAMKULAM POLICE STATION, ALAPPUZHA DISTRICT.

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PETITIONER/3RD ACCUSED:

**SIBY JOSE, AGED 30 YEARS,
S/O. JOSE, T.C 42/467, SURABHI,
MUTTATHARA VILLAGE, VALLAKKADAVU P.O.,
THIRUVANANTHAPURAM.**

BY ADV. SRI.PANOOP (MULAVANA).

RESPONDENT/STATE:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.S. HYMA.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

Crl.MC.No. 3914 of 2015

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A-1 TRUE COPY OF THE FIR IN CRIME NO.2614/2013 OF
KAYAMKULAM POLICE STATION, ALAPPUZHA DISTRICT.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.UBAID, J.

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Crl.M.C.No.3914 of 2015

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Dated this the 19th day of August, 2015

ORDER

The petitioner herein is the third accused in Crime No.2614 of 2013 of the Kayamkulam Police Station registered under Sections 363, 376(i) IPC, and under Sections 3 and 4 of the Protection of Children from Sexual Offences Act. He seeks orders under Section 482 Cr.P.C. quashing the FIR, and further proceeding as against him as the third accused. The Deputy Superintendent of Police, Kayamkulam has submitted an affidavit stating the materials collected during the investigation, to implicate the petitioner herein as the third accused. The counter affidavit reveals that the police could collect definite materials showing that the alleged act of offence committed by the accused Nos.1 and 2 was abetted by the petitioner herein by providing the necessary facilities. Thus, he is not a principal offender. He will be liable constructively as an abettor. Anyway, it is now submitted that investigation is over, and the police has submitted final report in Court. If so, the petitioner will have to approach the trial court, if he is confident that sufficient materials are not there to proceed against him, or to frame a charge against him. If he is otherwise aggrieved by the final report, he will have to challenge it in appropriate proceeding. The

prayer in this Crl.M.C. is to quash the further proceedings in the crime. Such a course cannot be thought of for the reasons stated above. In such a situation, it would be unsafe, improper and illegal to grant the prayer as requested by the petitioner, quashing the proceeding as against him, especially when the final report is submitted.

In the result, this Crl.M.C. is dismissed in limine, without being admitted to files.

Sd/-

**P.UBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE