

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

Crl.MC.No. 3961 of 2015 ()

**CC.NO. 296/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
WADAKKANCHERY
CRIME NO. 17/2012 OF WADAKKANCHERY POLICE STATION , THRISSUR DISTRICT**

PETITIONER/(3RD ACCUSED):-

**SHYJITH, AGED 26 YEARS,
S/O.KOOTTALA CHANDRAN, CHERUTHONI DESOM,
CHITTANDA VILLAGE, THRISSUR DT.**

**BY SRI.T.SETHUMADHAVAN,SENIOR ADVOCATE
ADVS. SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON**

RESPONDENT/(STATE):-

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(CRIME NO.17/2012 OF WADAKKANCHERRY POLICE STATION,
THRISSUR DISTRICT).**

BY PUBLIC PROSECUTOR SMT. P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 3961 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX A. TRUE COPY OF THE F.I.R. DATED 05.01.2012 IN CRIME NO.17/2012 OF WADAKKANCHERRY POLICE STATION.

ANNEX B. TRUE COPY OF THE CHARGE SHEET DATED 13.03.2012 IN CRIME NO.17/2012 OF WADAKKANCHERRY POLICE STATION.

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.S.TO JUDGE

sts

B. KEMAL PASHA, J.

.....
CRL.M.C. No. 3961 of 2015
.....

Dated this the 26th day of October, 2015

ORDER

Petitioner is the 3rd accused in Crime No.17/2012 of the Wadakkanchery Police Station, registered for the offences punishable under Sections 143, 147 and 148 of the Indian Penal Code, read with Section 149 IPC and Sections 20 and 27 of the Arms Act.

2. The allegation against the petitioner and the other accused is that on 06.01.2012, at 1.15 p.m., they formed themselves into an unlawful assembly armed with deadly weapons like sword. Presently, the matter is pending as C.C.No.296/12 before the Judicial First Class Magistrate's Court, Wadakkancherry. Even though offences under Sections 147 and 148 are also alleged, there is no

allegation that they had committed rioting and rioting armed with deadly weapons. No weapons were seized from the possession of the present petitioner. The offence under Section 148 IPC can be attributed only as against the actual person who is committing rioting, armed with deadly weapons. As no weapon has been seized from the possession of the petitioner, the offence under Section 148 of IPC cannot be attributed. Over and above it, there is absolutely nothing to attract Section 149 IPC as against the present petitioner. His name was not there in the first information statement.

3. Apart from all the above, it is the specific case of the investigating officer that the sword was seized from the possession of the first accused. In such a case, the offence under the Arms Act also cannot be attributed as against the petitioner. Matters being so, Annexure-A FIR and Annexure-B Final Report, and all proceedings in C.C.No.296/2012 of the Judicial First Class Magistrate's Court, Wadakkanchery

as against the petitioner herein, can be quashed.

In the result, this CrI.M.C. is allowed and Annexure-A FIR and Annexure- B Final Report, and all proceedings in C.C.No.296/2012 of the Judicial First Class Magistrate's Court, Wadakkanchery, as against the petitioner herein, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge