

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

**WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937**

**Crl.MC.No. 3994 of 2015**  
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**CRIME NO. 294/2015 OF VADAKKANCHERY POLICE STATION, TRISSUR**  
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**PETITIONER(S):**  
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**SUBRAMANIAN, AGED 44 YEARS,  
S/O.MOORTHY, ANNAMTHODU HOUSE,  
P.O. MULANKUNNATHUKAVU,  
CHIRAKUNNU DESOM, THRISSUR-680 581.**

**BY ADVS.SRI.SANTHEEP ANKARATH  
SRI.ARUN MATHEW VADAKKAN**

**RESPONDENT(S):**  
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**1. STATE OF KERALA,  
REPRESENTED BY ITS PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM,  
REPRESENTING SUB INSPECTOR OF POLICE,  
WADAKKANCHERRY POLICE STATION,  
WADAKKANCHERRY-680 582, THRISSUR DISTRICT.**

**2. JOMY JOSE,  
S/O.JOSE, OLAKKENGIL HOUSE, VELUR PO,  
THRISSUR DISTRICT, PIN-680 601.**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.  
R2 BY ADV. SRI.DINESH MATHEW J.MURICKEN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 08-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**PJ**

**APPENDIX**

**PETITIONER(S)' ANNEXURES**  
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**ANNEXURE A1 : TRUE COPY OF PARTNERSHIP DEED DATED 9-2-2011 EXECUTED  
BETWEEN THE PETITIONER AND THE 2ND RESPONDENT.**

**ANNEXURE A2 : TRUE COPY OF AGREEMENT DATED 14-1-2014 EXECUTED  
BETWEEN THE PETITIONER AND THE 2ND RESPONDENT.**

**ANNEXURE A3 : TRUE COPY OF JUDGMENT DATED 1-6-2015 IN WPC.NO.12952 OF  
2015 PASSED BY THIS HON'BLE COURT.**

**ANNEXURE A4 : TRUE COPY OF COMMISSION REPORT DATED 16-6-2015 IN  
IA.NO.1533/2015 ON THE FILE OF THE VACATION COURT, THRISSUR.**

**ANNEXURE A5 : ORDER DATED 18-6-2015 ISSUED BY SUB INSPECTOR OF POLICE,  
WADAKKANCHERRY.**

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

**/ TRUE COPY /**

**P.S. TO JUDGE**

**PJ**

ALEXANDER THOMAS, J.

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Dated this the 8<sup>th</sup> day of July, 2015.

ORDER

The prayer in this Crl.M.C is as follows:

“For these and other grounds to be submitted at the time of hearing, it is respectfully prayed that this Hon'ble Court be pleased to quash Annexure-A5 order.”

2. This case come up for admission on 1.7.2015 on which day the learned counsel for the petitioner made a specific submission before this Court that the key of the premises in question was with the police as on that day and that if this Court does not pass necessary orders the said key will be handed over by the 1<sup>st</sup> respondent-Sub Inspector of Police to the contesting respondent No.2. It is only on the basis of this submission made on behalf of the petitioner that this Court directed as per interim order dated 1.7.2015 that police authorities shall not take any such action of handing over the key to the 2<sup>nd</sup> respondent and that the key of the premises in question need not be handed over by the 1<sup>st</sup> respondent-Sub Inspector of Police to the contesting respondent No.2 or to the petitioner for the time being and custody of the key may be kept

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by the police until further orders from this Court. Later, the 2<sup>nd</sup> respondent entered appearance through counsel and it is pointed out that the key of the premises as on 1.7.2015 was with the 2<sup>nd</sup> respondent and under the guise of implementing the order dated 1.7.2015 passed by this Court in this case, the 1<sup>st</sup> respondent-Sub Inspector of Police had taken away the key of the premise from the 2<sup>nd</sup> respondent and has ordered closure of the functioning of the unit working in that premises.

3. Based on the submission of the 2<sup>nd</sup> respondent, this Court had passed order dated 6.7.2015 directing the 1<sup>st</sup> respondent to inform as to whether as on 1.7.2015 the key was with the police or with the 2<sup>nd</sup> respondent and whether in purported compliance of the interim order of this Court the key of the premises in question was taken away by the 1<sup>st</sup> respondent-Sub Inspector of Police from the contesting 2<sup>nd</sup> respondent.

4. Today, the learned Public Prosecutor on instructions from the 1<sup>st</sup> respondent-Sub Inspector of Police (who is also personally present before this Court now) submitted that the key of the premises as on 1.7.2015 was indeed with the 2<sup>nd</sup> respondent and further that the 1<sup>st</sup> respondent had taken the key from the 2<sup>nd</sup> respondent on the plea that this is so ordered by this Court as per this Court's interim order dated

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1.7.2015. This Court has earlier passed order dated 1.7.2015 only in the aforestated circumstances and on the specific submission made on behalf of the petitioner that the key of the premises was with the 1<sup>st</sup> respondent-Sub Inspector of Police as on 1.7.2015. Accordingly, it is ordered that the action of the 1<sup>st</sup> respondent-Sub Inspector of Police in taking away the key of the premises from the 2<sup>nd</sup> respondent is not in consonance with the direction and orders issued by this court on 1.7.2015. Learned Public Prosecutor on instructions from the 1<sup>st</sup> respondent-Sub Inspector of Police undertake that the key of the premises is now being handed over to the learned counsel appearing for the 2<sup>nd</sup> respondent to be handed over back to the contesting 2<sup>nd</sup> respondent. This submission by way of undertaking on behalf of the 1<sup>st</sup> respondent is hereby recorded. It is further submitted by the Prosecutor on instructions that the notice issued by the 1<sup>st</sup> respondent to close down the unit will stand recalled, as it was ordered on a misunderstanding. In view of the submission, it is further ordered that the 2<sup>nd</sup> respondent will give proper receipt regarding the handing over of the key by the 1<sup>st</sup> respondent and such receipt shall be attested by the learned Public Prosecutor.

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5. This Court as per order dated 1.7.2015 had also directed the 1<sup>st</sup> respondent-Sub Inspector of Police to explain under what authority he has issued impugned Anx-A5 order and further as per this Court's order dated 1.7.2015 had directed the RDO of the area concerned to make a site inspection and ascertain as to whether there is any law and order situation that prevails in the premises in question.

5. In compliance with the direction, the Sub Collector/RDO has submitted a report dated 4.7.2015 through fax addressed to the Registry of this Court, in which it is inter alia stated that during the inspection, he could not see any serious law and order problem existing in the area except conflict between the petitioner and 2<sup>nd</sup> respondent, against which the police had already registered crimes and there is no law and order break down which affect the public at large and that the reason for the conflict is that disputes with regards to the possession of the unit as between the petitioner and contesting respondent and that crime, in that regard has also been registered.

6. It is further pointed out by the learned counsel appearing for the 2<sup>nd</sup> respondent that the 2<sup>nd</sup> respondent has also filed a Writ Petition as W.P.(C).No.18782/2015 praying for quashment of the impugned Anx-A5 order herein (Ext.P1 in W.P.(C).No.18782/2015)

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and that this Court as per order dated 23.6.2015 rendered in W.P(C). No.18782/2015 has passed interim stay of Ext.P1 notice therein etc.

7. The sole prayer raised by the petitioner in this Crl.M.C is for quashment of the impugned Anx-A5 order herein. The learned counsel for the 2<sup>nd</sup> respondent submit that the said prayer raised in this Crl.M.C for quashing Anx-A5 may be allowed by this Court. The learned Public Prosecutor also fairly submits that in view of the report dated 4.7.2015 of the Revenue Divisional Officer, the 1<sup>st</sup> respondent has no objection for the grant of the prayer of quashment of Anx-A5. Since this is the only prayer made in this Crl.M.C and in view of the submission made by the learned counsel for the 2<sup>nd</sup> respondent and in the light of the report made aforesaid by the RDO/Sub Collector, it is ordered in the interest of justice, impugned Anx-A5 order will stand quashed.

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

ALEXANDER THOMAS,  
Judge.

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