

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

Crl.MC.No. 4058 of 2015 ()

**COMPLAINT NO.K 5418/2014 OF REVENUE DIVISIONAL OFFICER (SUB DIVISIONAL
MAGISTRATE), KOTTAYAM.**

.....

PETITIONER(S):

**THOMAS ZACHARIAH, SON OF C.C. ZACHARIAH,
AGED 69, CHEMMATH HOUSE, MANARCAUDU P.O.,
KOTTAYAM DISTRICT, REPRESENTED BY HIS
POWER OF ATTORNEY HOLDER ABRAHAM K.THOMAS,
AGED 76, SON OF K.T. THOMAS, KUTTIPPURAM HOUSE,
PUTHUPALLY, RESIDING AT CHEMMATH HOUSE,
MANARCAUDU PO., KOTTAYAM DISTRICT-686 019.**

BY ADV. SRI.ABRAHAM GEORGE JACOB.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THE REVENUE DIVISIONAL OFFICER
(SUB DIVISIONAL MAGISTRATE), KOTTAYAM DISTRICT,
COLLECTORATE P.O., KOTTAYAM-686 002.**
- 3. C.C. GEORGE, CHERUKUNNEL,
MANARCAUDU P.O., MANARCAUDU VILLAGE,
KOTTAYAM DISTRICT-686 019.**

R1 & R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- | | |
|---------------------|---|
| ANNEXURE I | TRUE COPY OF COMPLAINT NUMBER K5418/14 DATED 11.09.2014 PENDING BEFORE THE REVENUE DIVISIONAL OFFICER, KOTTAYAM. |
| ANNEXURE-II | TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER OF MANARCAUDU VILLAGE OFFICE DATED 07.10.2014. |
| ANNEXURE-III | TRUE COPY OF THE ORDER DATED 23.10.2014 OF THE REVENUE DIVISION OFFICER, KOTTAYAM IN COMPLAINT NUMBER K 5418/14. |
| ANNEXURE-IV | TRUE COPY OF THE LETTER DATED 20.06.2015 ISSUED TO THE 2ND RESPONDENT ALONG WITH COPY OF THE POSTAL RECEIPT. |

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
Crl.M.C. No.4058 of 2015
.....

Dated this the 31st day of August, 2015

ORDER

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A complaint has been preferred by the petitioner before the learned Sub Divisional Magistrate, Kottayam complaining that he is apprehending danger from the overhanging branches of trees as well as miscellaneous trees standing in the property of the 3<sup>rd</sup> respondent. Instead of having recourse to the provisions under Section 133 Cr.P.C., the learned Sub Divisional Magistrate has chosen simply to transfer the matter to the Secretary of the concerned Grama Panchayat.

2. Heard learned counsel for the petitioner and learned Public Prosecutor.

3. It seems that the learned Sub Divisional Magistrate has failed to exercise his jurisdiction as contemplated under Section 133 Cr.P.C. Instead of

proceeding with the complaint under Section 133 Cr.P.C., the learned Sub Divisional Magistrate has unnecessarily transferred the matter for consideration, to the Secretary of the concerned Grama Panchayat through Annexure-III, which is quite uncalled for.

In the result, this Crl.M.C. is allowed, and Annexure-III passed by the learned Sub Divisional Magistrate, Kottayam is quashed. The matter is remitted to the learned Sub Divisional Magistrate, Kottayam for disposal in accordance with law, as expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this order.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/31/08

*// True Copy //*

*PA to Judge*