

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Crl.MC.No. 4376 of 2015 ()

MC. NO.111/2015 OF SUB DIVISIONAL MAGISTRATE COURT, FORT KOCHI.

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PETITIONER(S):

**PRASAD, AGED 38 YEARS,
S/O VIJAYAN, NEDUKKATTIL HOUSE,
PONNARIMANGALAM, MULAVUKAD.**

**BY ADVS.SRI.K.R.VINOD,
MS.JENCY SUSAN JOSE,
SRI.V.SRI NATH.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
MULAVUKAD POLICE STATION, KOCHI-682 035.**

BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

Crl.MC.No. 4376 of 2015

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A1: THE COPY OF THE ORDER OF THE SUB DIVISIONAL
MAGISTRATE, FORT KOCHI IN MC NO.111/2015.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 4376 of 2015

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Dated this the 14th day of July, 2015

O R D E R

The matter in issue raised in these Criminal Miscellaneous Case is covered against the respondents-State by the legal principles laid down by this Court in Santhosh v. State of Kerala reported in 2014(3) KLT 837 as well as the judgment dated 19.12.2014 of this Court rendered in the case Sajeesh.K v. State of Kerala in Crl.M.C.No.7259/2014 and connected cases reported in 2014 SCC Online Ker. 27899 dealing with similar impugned proceedings under Sec.107 of the Cr.P.C. The impugned order in this case is similar or almost identical to the one considered in the above said reported rulings of this Court.

2. Accordingly, in tune with the directions issued by this Court in the said reported decisions, the impugned order in this case is quashed with liberty to the Sub Divisional Magistrate concerned to take fresh action, if actually necessary, after complying with all the statutory procedural requirements and after applying the legal principles laid down in the aforementioned reported rulings of

this Court and in accordance with law.

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

Before parting with this case, this Court would like to observe that not even the date on which Anx. A-1 order has been issued, is seen stated therein. What is stated therein is only the year, 2014. Though it is stated that the impugned Sec.107 proceedings at Anx.A-1 have been issued in some day and some month in the year 2014, it is seen to be on the basis of Crime No.346/2015 of Mulavukad Police Station. Further the petitioner was directed to appear before the officer on 30.6.2015 to show cause. This clearly shows total lack of responsibility and application of mind of the officer concerned in exercising vital powers conferred under Sec. 107 of the Cr.P.C., which is essentially a part of the judicial power conferred on the executive magistracy. It is hoped and expected that the officer concerned would at least pay more meticulousness and care while exercising judicial power conferred as per the Code of Criminal Procedure.

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///True copy///

P.S. to Judge

Sd/-
ALEXANDER THOMAS, JUDGE

