

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

Crl.MC.No. 4715 of 2015 ()

MC 20/2015 OF SUB DIVISIONAL MAGISTRATE COURT, MANANTHAVADY

PETITIONER/COUNTER PETITIONER :

**NAZER P.C.,
AGED 48, S/O.ALI, PANNIYODAN HOUSE,
THONDERNADU AMSAM, KUNHOME, MANANTHAVADY,
WAYANAD DISTRICT.**

**BY ADVS.SRI.KRISHNA PRASAD S.
SRI.B.SIBI
SRI.NOBEL RAJU
SRI.K.S.CHANDRA BOSE**

RESPONDENTS/COMPLAINANT :

**1. THE SUB DIVISIONAL MAGISTRATE
MANANTHAVADY, WAYANAD DISTRICT- 670 645.**

**2. STATE OF KERALA
THROUGH S.I. OF POLICE, VELLAMUNDA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. R. GITHESH

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...2/-

Crl.MC.No. 4715 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE-A1: A TRUE COPY OF THE PRELIMINARY ORDER DATED 17.7.2015
PASSED BY THE IST RESPONDENT SUB DIVISIONAL
MAGISTRATE, MANANTHAVADY.**

**ANNEXURE-A2: A TRUE COPY OF THE OBJECTION FILED IN MC. 20/2015 DATED
21.7.2015 BEFORE THE IST RESPONDENT.**

RESPONDENT(S)' ANNEXURES :

ANNEXURE R1(a) THE PHOTOCOPIES OF THE NEWSPAPERS.

ANNEXURE R1(b) PHOTOCOPY OF THE PRELIMINARY ORDER.

//TRUE COPY//

P.A. TO JUDGE

Mn

ALEXANDER THOMAS, J.

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Crl.M.C. No.4715 of 2015

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Dated this the 4th day of August, 2015

ORDER

The impugned order is at Anx.A1 dated 17.7.2015 purportedly issued u/s 107 of the Cr.P.C, wherein it is ordered that the petitioner shall show cause as to why he should not be required to execute a personal bond for Rs.2 lakhs, to be deposited in the Criminal Court deposit of the Sub Divisional Magistrate concerned for a period of one year, etc. This order is patently ultra vires the statutory provisions contained u/s 107 of the Cr.P.C. Sec.107 (1) of the Cr.P.C reads as follows:

“107. Security for keeping the peace in other cases:—(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.”

2. Moreover, the matter in issue raised in this Criminal Miscellaneous Case is covered against the respondent–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.

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

sd/-

ALEXANDER THOMAS, JUDGE

