

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Crl.MC.No. 4879 of 2015

**CC 1750/2012 ADDL. CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.
CRIME NO. 512/2012 OF VANCHIYOOR POLICE STATION.**
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PETITIONER(S)/PETITIONER/ACCUSED 1 & 2:

- 1. RAJESH .K.R, S/O.RAJAN NAIR,
KEEZHPALAM VEEDU, T.C.12/424,
PATTOM P.O., THIRUVANANTHAPURAM-680 004.**
- 2. BALACHANDRAN R.B.,
S/O S.RAVEENDRAN NAIR, AGED 37 YEARS,
PEROORKADA VILLAGE, T.WARD,
GANDHI NAGAR LINE, TC 51/1786(2), GNRA 80.B,
PARADISE HOUSE, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.M.H.HANIL KUMAR
SRI.M.R.DHANIL**

RESPONDENTS/COMPLAINANT AND STATE:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-680001.**
- 2. THE SUB INSPECTOR OF POLICE,
VANCHIYOOR POLICE STATION,
THIRUVANANTHAPURAM DISTRICT-680001.**
- 3. SHAJI @ OAMANGALASSERI,
S/O SHAMSUDEER, MANGALASSERI HOUSE, ATTINGAL,
EDACKODE VILLAGE, NEAR THAICKAVU,
NOW RESIDING AT T.C.25/3216(3), MANNUR ROAD,
VANCHIYOOR P.O., THIRUVANANTHAPURAM-695035.**

R1 & R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A1: **A CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN
FIR/CRIME NO.512/2012 ON THE FILES OF VANCHIYOOR
POLICE STATION.**

ANNEXURE A2: **A CERTIFIED COPY OF THE FINAL REPORT SUBMITTED BY
THE POLICE IN FIR/CRIME NO.512/2012 ON THE FILES OF
VANCHIYOOR POLICE STATION.**

RESPONDENTS' ANNEXURES: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Crl.M.C No.4879 of 2015

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Dated this the 31st day of July, 2015

O R D E R

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

.. to allow this Criminal Miscellaneous case by quashing all further proceedings in C.C No.1750/2012 on the file of Additional Chief Judicial Magistrate Court, Thiruvananthapuram in Crime No.512/2012 on the file of Vanchiyoor Police Station and final report.”

2. The gist of the prosecution case is as follows:

“The petitioners are practicing lawyers. They have been arrayed as accused in Crime No.512/2012 dated 30.05.2012 on the file of the Vanchiyoor Police Station wherein it is alleged in the final report that the accused 1 and 2 are lawyers and they found human stool in front of their advocate office. Suspecting that the complainant is the the person behind the same, the accused entered into the room of the complainant bearing No.TC 25/3216 on 29.5.2012 at about 1.10 p.m and the first accused kicked the complainant and then broke open a plastic chair by smashing the same on the floor and again attempted to beat the first accused with a piece of the chair. It is further alleged that the 2nd accused pushed the complainant and thereby committed the offences under Section 323, 324 r/w 34 of Indian Penal Code. The complainant has alleged an entirely different case in the First Information Statement that accused attacked him as he played an important role declaring the Men's hostel as Ladies Hostel. There is no wound certificate. The petitioners are wrongly prosecuted in the above case without any material or evidence on record.”

3. Heard Sri. M.H Hanil Kumar, the learned counsel for the petitioner and the learned Public Prosecutor for the respondent, State of Kerala. The main ground urged by the writ petitioner is that there is unexplainable contradiction in the case now sought to be

canvassed in the final report, compared to the case initially projected in the FIR. This court is of the considered opinion that contentions like this need not be considered by this Court while exercising its extra ordinary discretion u/s 482 of the Cr.P.C, for those are matters which eminently fall within the province of the court below. Accordingly, this Court desists from exercising its extra ordinary discretion u/s 482 of the Cr.P.C. However, it is made clear that none of the observations and the findings in this judgment shall in anyway trammel or influence the outcome of the pending impugned criminal proceedings.

With these observations, this Crl.M.C stands dismissed.

sd/-

sab

ALEXANDER THOMAS, JUDGE