

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

Crl.MC.No. 4906 of 2015

CC 200/2008 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I, KARUNAGAPPALLY
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PETITIONER(S):

**RATHEESH, AGED 35 YEARS,
S/O RAJU, RESIDING AT PURNATHAYIL HOSUE,
KLAPANA VILLAGE, KARUNAGAPALLY, KOLLAM DISTRICT.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S)/RESPONDENTS/STATE:

- 1. THE SUB INSPECTOR OF POLICE,
OCHIRA POLICE STATION, KOLLAM DISTRICT-691 001.**
- 2. STATE OF KERALA, (RESPONDENTS 1 & 2)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
19-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEXURE A1: TRUE COPY OF FIR & CHARGE SHEET IN C.C.200/2008.

ANNEXURE A2: TRUE COPY OF DEPOSITION OF PW1 IN C.C.200/2008.

ANNEXURE A3: TRUE COPY OF DEPOSITION OF PW2 IN C.C.200/2008.

**ANNEXURE A4: TRUE COPY OF ADVISE MEMO ISSUED BY KPSC TO THE
PETITIONER.**

ANNEXURE A5: TRUE COPY OF AFFIDAVIT SWORN TO BY CW2.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C No.4906 of 2015

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Dated this the 19th day of August, 2015

O R D E R

The prayers in this Crl.M.C are as follows:

- i) Quash Annexure A1 FIR and charge sheet and all further proceedings thereon against the petitioner in C.C No.200/2008 on the file of the Judicial Magistrate 1st Class, Karunagappally."
- ii) Any other reliefs which may be prayed for from time to time.

2. In compliance with this Court's order dated 3.8.2015, the Judicial First Class Magistrate Court, Karunagappally has submitted a report dated 5.8.2015 to the Registry of this Court wherein it is stated that coercive steps to procure the attendance of CW4 to 6 and that the case now stands posted to 11.08.2015 and that minimum 3 months time is required for completing the examination of witnesses and pronounce the judgment and that there is no requirement to prepone the posting of the case. Later, this court had passed order dated 12.8.2015 in this case, reads as follows:

"This Court was prima facie inclined to consider the grant of the main prayer in this case, but since the evidence in the trial of this case has commenced midway, this Court is of the considered opinion that discretion so as to consider the main prayer need not be exercised now. It has been pointed out by the petitioner that as

made out in Anxs. A2 and A3 depositions by PW1 and PW2 in C.C.No.200/2008, they have stated that the petitioner is not involved in the commission of the alleged offence. Anx.A-5 affidavit sworn to by CW2 (who is yet to be examined before the court below but he has sworn to an affidavit before the this Court as Anx.A-5 stating that the petitioner is not involved in the incident in question.

2. Sri. Sunny Mathew, learned counsel for the petitioner submits that the petitioner has already been advised for appointment by the Kerala Public Service Commission (KPSC) to the post of Civil Police Officer as per Anx.A-4 proceedings. It is prayed that in view of these aspects it is urged in the Crl.M.C this Court may be pleased to grant stay of the impugned criminal proceedings or render necessary appropriate directions in the interest of the justice. Accordingly in view of the aspects made out in this Crl.M.C, it is ordered in the interest of justice that the pendency of the present impugned criminal proceedings in Calendar Case, C.C.No.200/2008 on the file of the Judicial First Class Magistrate Court, Karunagappally, need not by itself be taken as a bar for consideration of the petitioner's claim for any appointment and its selection process. Needless to say that the final outcome of such trial process can certainly be taken into consideration in that regard. It is then submitted on behalf of the petitioner that necessary directions may also be given to the Court below to ensure that the trial which is now posted to 11-08-2015, may be expedited so as to ensure that the trial is concluded within any further delay."

2. Heard Sri.Sunny Mathew, the learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent State of Kerala.

3. The learned counsel for the petitioner submits that the petitioner would confine his prayer only for a limited direction that the court below may be directed to ensure that the entire trial process in C.C No.200/2008 is completed within two months especially in view of the fact that the petitioner has been advised for appointment to a Government service based on the selection done

by the Kerala Public Service Commission. In view of the aspects pointed out by this Court in the aforestated order dated 12.8.2015, this Court is of the considered opinion that the main prayer need not be considered and that the issue relating to the expeditious competition of trial alone may be adverted to. Accordingly, it is ordered in the interest of justice, that the court below will take all reasonable endeavours possible under the circumstances to ensure that C.C No.200/2008 is disposed without much delay and all reasonable efforts should be taken to ensure that the trial in C.C No.200/2008 is completed at least within 2 to 3 months, provided the parties witnesses and all concerned fully co-operate with the conduct and completion of the trial process.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE