

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Crl.MC.No. 3881 of 2014 ()

CC.NO. 3/2013 OF CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE
CRIME NO. 348/1996 OF KASABA POLICE STATION, KOZHIKODE DISTRICT

PETITIONER/4TH ACCUSED:

JAYAN ADIYATTU @ T.A.JAYAVALLABHAN, AGED 60 YEARS,
S/O.T.K.ARAVINDAKSHAN, ADIYATTU HOUSE,
KOTTAPPURAM AMSOM DESOM,
THRISSUR DISTRICT. NOW RESIDING AT N.H9,
SAIKRIPA APARTMENT, KAVERY NAGAR, SAIBABA COLONY,
COIMBATOOR - 641 038.

BY ADVS.SRI.M.H.HANIL KUMAR
SRI.A.P.VASAVAN

RESPONDENT(S)/COMPLAINANT & STATE:

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- 1. JOSE GARVARGHESE, S/O.K.M.GARVARGHESE,**
KUNNUMPURATH HOUSE, CHEVAYOOR.P.O.,
KOZHIKODE - 673 017.
 - 2. THE SUB INSPECTOR OF POLICE,**
KASABA POLICE STATION, KOZHIKODE,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
 - 3. STATE OF KERALA,**
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 & R3 BY PUBLIC PROSECUTOR SMT. P.MAYA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 29-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX-A1: A CERTIFIED COPY OF THE COMPLAINT GIVEN TO INSPECTOR GENERAL OF POLICE, KOZHIKODE DATED 5.12.1996
- ANNEX-A2: A CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO/FIR NO.348/1996 DATED 6.12.1996 ON THE FILES OF THE KASABA POLICE STATION, KOZHIKODE
- ANNEX-A3: A TRUE COPY OF THE STATEMENT GIVEN BY THE FIRST RESPONDENT TO THE POLICE DATED 7.12.1996
- ANNEX-A4: A TRUE COPY OF THE MEMORANDUM OF EVIDENCE IN CRIME NO.348/1996 DATED 25.9.1999
- ANNEX-A5: A CERTIFIED COPY OF THE FINAL REPORT SUBMITTED BY THE SECOND RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE IN FIR/CRIME NO.348/1996 DATED 21.4.2000
- ANNEX-A6: A CERTIFIED COPY OF THE STATEMENT GIVEN BY THE FIRST RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE IN C.C.NO.49/2000
- ANNEX-A7: A CERTIFIED COPY OF THE JUDGEMENT DATED 14.10.2003 IN C.C. NO.49/2000 ON THE FILES OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE.
- ANNEX-A8: A TRUE COPY OF THE CERTIFICATE DATED 15.11.2010 ISSUED BY THE TAMIL NADU HOMEOPATHY MEDICAL COUNCIL.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

B.KEMAL PASHA, J.

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CRL.M.C. No.3881 of 2014

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Dated this the 29th day of September, 2015

ORDER

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

2. The petitioner is the 4th accused in Crime No.348 of 1996 of the Kasaba Police Station, which was charge sheeted for the offences punishable under Sections 379 and 120B IPC read with Section 34 IPC and Section 511 IPC of Section 63 of the Copy Rights Act.

3. According to the petitioner, A1 and A2 in the case had faced the trial and they were acquitted. The main allegation against the petitioner is one relating to the offence under Section 120B IPC read with the offence under the Copy

Rights Act as well as Section 379 IPC. Presently, it is too premature to say that the offences alleged against the petitioner will not lie against the petitioner. The petitioner, who was absconding for long, cannot encash Annexure A7 judgment, by which A1 and A2 were acquitted by the court below. The matters raised by the petitioner herein can be brought to the notice of the court below at the stage of Section 239 Cr.P.C.

With the said liberty to the petitioner, this CrI.M.C. is dismissed.

Sd/-

**B. KEMAL PASHA
JUDGE**

DSV/29/9/15

// True Copy //

P.A. To Judge