

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

Crl.MC.No. 3932 of 2014 ()

CC. NO.393/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA.

.....

PETITIONER/ACCUSED:

**JOHN KOSHY, S/O KOSHY JOHN, AGED 65,
KARANASSERY HOUSE, KATTUKKARA MURI,
RAMANCHIRA, THIRUVALLA P.O.,
PATHANAMTHITTA DISTRICT- 695 101.**

**BY ADVS.SRI.JESWIN P.VARGHESE,
SRI.BIJO THOMAS GEORGE.**

RESPONDENTS/RESPONDENTS/ STATE:

**1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
THIRUVALLA POLICE STATION, BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

*** ADDL. R2 IMPEADED**

**2. THE SECRETARY,
THIRUVALLA MUNICIPALITY,
THIRUVALLA P.O., PIN- 689 102.**

*** ADD. R2 IS IMPEADED AS PER ORDER DATED 23.07.2014
IN CRL.MA. NO.6972/2014.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.
ADDL. R2 BY ADV. SRI.S.SUBHASH CHAND, SC.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 09-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A CERTIFIED COPY OF THE FIR DATED 16-06-2013 IN
CRIME NO.849/2011 OF THIRUVALLA POLICE STATION.**

**ANNEXURE B CERTIFIED COPY OF THE FINAL REPORT IN CC.393/2011 OF
THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
THIRUVALLA.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
Crl.M.C. No.3932 of 2014 B
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Dated this the 9th day of December, 2015

ORDER

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Petitioner is the accused in CC.393/2011 of the Judicial First Class Magistrate's Court, Thiruvalla, which has arisen from Crime No.849/2011 of Thiruvalla Police Station for the offences punishable under Sections 451 and 294(b) IPC.

2. The allegation against the petitioner is that he had committed trespass into the office of the Thiruvalla Municipality and called bad names by standing in front of the cabin of the Superintendent (Engineering).

3. According to the learned counsel for the petitioner, the offences alleged against the petitioner cannot be attracted even when the allegations are admitted. The learned counsel for the additional 2<sup>nd</sup> respondent has pointed out that this kind of attitude of the petitioner cannot

be countenanced. Whatever it is, presently, this Court has to consider the question as to whether the offences under Sections 451 and 294(b) IPC will lie or not.

4. When it is a public office, the entry into that public office by the petitioner cannot be termed as a house trespass and, therefore, apparently, the offence under Section 451 IPC will not lie. Regarding the offence under Section 294(b) IPC, the term allegedly used by the petitioner, which is discernible from the statement of a solitary witness to that effect, is not a sexually coloured remark, which can attract the offence under Section 294(b) IPC. Therefore, the offence under Section 294(b) IPC also will not lie. Matters being so, there cannot be a successful prosecution in CC.393/2011 even if the case is continued and, therefore, all further proceedings as against the petitioner in CC.393/2011 of the Judicial First Class Magistrate's Court, Thiruvalla, which has arisen from Crime No.849/2011 of Thiruvalla Police Station, can be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings as against the petitioner in CC.393/2011 of the Judicial First Class Magistrate's Court, Thiruvalla, which has arisen from Crime No.849/2011 of Thiruvalla Police Station, are quashed.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/10/12

*// True Copy //*

*PA to Judge*