

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

Crl.MC.No. 5166 of 2015

**CC 862/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KOCHI
CRIME NO. 143/2013 OF HARBOUR POLICE STATION , ERNAKULAM**

PETITIONER(S)/ACCUSED:

**NEELAM SAHARAN, AGED 26 YEARS,
D/O.MADANLAL SAHARAN, BOMPARA VILLAGE,
RAJSINGH NAGAR TALUK, SRI GANGA NAGAR, RAJASTHAN.**

BY ADV. SRI.GEORGIE SIMON

RESPONDENT(S)/COMPLAINANT, STATE & DEFACTO COMPLAINANT:

- 1. STATION HOUSE OFFICER,
HARBOUR POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 3. BABU RAJAN,
S/O.NARAYANAN, CHAANIYAMURIVEETIL,
PONNIYETHU SOUTH,
CHILAVANNOOR, ELAMKULAM, ERNAKULAM-682020.**

R1 & BY PUBLIC PROSECUTOR SMT.SAREENA

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 06-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1 : CERTIFIED COPY OF FIR NO.143/2013 TAKEN BY HARBOUR POLICE STATION, ERNAKULAM CITY U/S 341,323,294 (B) AGAINST THE PETITIONER DATED 25-2-2013.

ANNEXURE A2 : CERTIFIED COPY OF FINAL REPORT INITIATED BY HARBOUR POLICE STATION, ERNAKULAM CITY AGAINST PETITIONER DATED 5-3-2013.

ANNEXURE A3 : TRUE COPY OF FIR NO.127/2013 INITIATED BY THE PETITIONER AGAINST THE RESPONDENT NO.3 BY HARBOUR POLICE STATION, ERNAKULAM CITY DATED 20-2-2013.

ANNEXURE A4 : COPY OF THE COMPLAINT INITIATED AGAINST THE 3RD RESPONDENT BY THE PETITIONER ON 20-02-2013.

ANNEXURE A5 : ORIGINAL OF SETTLEMENT COPY ENTERED BETWEEN THE 3RD RESPONDENT SRI.BABU RAJAN C.M. AND HIS MEN WITH PETITIONER DATED 11-3-2013.

ANNEXURE A6 : TRUE COPY OF THE WITHDRAWAL PETITION FILED BY THE PETITIONER TO THE SHO, HARBOUR POLICE STATION ERNAKULAM CITY.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

=====

Crl.M.C. No. 5166 of 2015

=====

Dated this the 6th day of November, 2015

ORDER

Petitioner is the accused in C.C.No.862/2015 of the Judicial First Class Magistrate's Court-I, Kochi, which has arisen from Crime No.143/2013 of the Harbour Police Station, Ernakulam City, for the offences punishable under Sections 341, 323 and 294(b) IPC.

2. The allegation against the petitioner is that on 20.02.2013 at 10.45 a.m., she caught on the shirt worn by CW1 and slapped on the back of his neck by calling him "bastard".

3. The petitioner is working as Assistant Commandant, C.I.S.F unit, Cochin Port Trust on that date. According to the petitioner, the allegations levelled against her by CW1 are cooked up in anticipation to the crime lodged against

the 3rd respondent herein at the Harbour Police Station, as Crime No.127/2013, for the offence under Section 353 IPC. It is alleged that on 20.02.2013 at 11 a.m., the 3rd respondent herein, who is the de facto complainant in Crime No.143/2013 came in front of the Warf Gate of the Cochin Port Trust and obstructed a vehicle whereby causing obstruction to the discharge of the official duties of the petitioner and the other Officers, who were on duty.

4. The allegations in C.C No.862/2015 clearly revealed that the incident had allegedly occurred while the petitioner was engaged in discharge of her official duties as Assistant Commandant of the CISF Unit, Cochin Port Trust. In such case, the court below should not have taken cognizance of the offence except with the previous sanction of the Central Government within the meaning of Section 197(1) Cr.P.C. In this particular case, no such sanction was obtained and therefore, the cognizance taken by the court below in this matter is bad in law. There was allegedly an interference

from the part of the 3rd respondent herein in discharge of the official duties of the petitioner on that particular day. It is evident that the present crime has been got registered as a counter blast to the case against the 3rd respondent.

5. Apart from the above, the learned counsel for the petitioner has pointed out that the matter involved was clearly settled between the parties through Annexure-A5. Even though notice has been served on the 3rd respondent, he has not chosen to appear before this Court in the matter. Considering all the above and for want of sanction under Section 197(1)(a) Cr.P.C., this Court is of the view that all further proceedings in C.C.No.862/2015 of the Judicial First Class Magistrate's Court-I, Kochi, based on Crime No.143/2013 of the Harbour Police Station, Ernakulam City, are liable to be quashed.

In the result, this Crl.M.C is allowed and all further proceedings in C.C.No.862/2015 of the Judicial First Class Magistrate's Court-I, Kochi, based on Crime No.143/2013 of

Crl.M.C. No. 5166 of 2015

4

the Harbour Police Station, Ernakulam City, are hereby
quashed.

Sd/-

B.KEMAL PASHA, JUDGE

stu