

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

Crl.MC.No. 5320 of 2015 ()

**CC.NO. 1618/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM
CRIME NO. 388/2013 OF KAYAMKULAM POLICE STATION, ALAPPUZHA**

PETITIONER/ACCUSED :

**SAJU
AGED 41 YEARS, S/O.BRAHMANANDAN,
ANANTHAM VEEDU, PUTHUPPALLI MURI
FROM KOODATHIL PADETHETHIL, PUTHUPPALLY,
KAYAMKULAM, PIN - 690527.**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU S.**

RESPONDENT/STATE :

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031.**

BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

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APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE-A1: TRUE COPY OF THE FINAL REPORT AND CHARGE SHEET IN
C.C.NO.1618/2014 BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT, KAYAMKULAM AND IN CRIME
NO.388/2013 OF KAYAMKULAM POLICE STATION,
KAYAMKULAM.**

RESPONDENT(S)' ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

ALEXANDER THOMAS, J.

Crl.M.C.No.5320 Of 2015

Dated this the 18th day of August, 2015.

ORDER

The main contentions projected by the petitioner to advance the prayers sought for in the Crl.M.C are as follows:

(i) It is submitted that there is no prima facie case against the petitioner that he committed an offence as alleged and there is no legal evidence to proceed against him.

(ii) It is also submitted that the allegation made against the petitioners are vague and the ingredients will not constitute an offence under Arms Act.

(iii) The allegations made even if they are taken at its face value and accepted in the entirety do not prima facie constitute any offence against the petitioner.

(iv) The petitioner has not filed any application before this Court seeking similar relief. No such application for similar relief is pending before any other court.

In the light of these aspects, the petitioner has made out the following prayer instituted under Sec.482 of the Cr.P.C seeking the invocation of the inherent powers conferred as per that provision as follows:

“.....to quash Annexure A1 final report and all the further proceedings against the petitioners in C.C.No.1618/2014 pending before the Judicial First Class Magistrate Court, Kayamkulam arising out of Crime No.388/2013 of Kayamkulam Police Station in the interest of

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justice.”

2. Heard Sri.K.Shaj, learned counsel for the petitioner and the learned Public Prosecutor appearing for the respondent–State of Kerala.

3. Having heard both sides, this Court is of the considered opinion that having regard to the nature of the contentions raised in this matter and also taking into account the nature of the allegations projected by the prosecution, this Court is of the considered opinion that it is for the petitioner to seek the remedy of discharge by filing appropriate application in that regard before the court below concerned. It is pointed out by the learned counsel for the petitioner that the court below has not yet framed charges and therefore the stage for consideration of the plea of discharge is not yet over.

4. This course of action is not objected to by the prosecution also.

5. In the light of these aspects, it is ordered in the interest of justice that it is for the petitioner to file appropriate application seeking the prayer of discharge before the court below and thereupon the court below shall consider the said plea of discharge on merits after adverting to each of the contentions that may be alleged by the petitioner in that regard and a decision thereon shall be taken after granting a reasonable

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opportunity of being heard to the petitioner through his counsel, if any, and the learned Prosecutor appearing for the respondent State, provided the stage for consideration of plea of discharge is not yet over. The court below will pass a considered order after adverting to each of the contentions of the petitioner. A decision in this regard as directed above shall be rendered by the court below within a period of 4 weeks from the date of submission of the application for discharge along with a certified copy of this order.

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

ALEXANDER THOMAS,
Judge.

bkn/-