

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

Crl.MC.No. 5349 of 2015

C.P.NO.90/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM

CRIME NO. 162/2012 OF VALAYAM POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED NO.1,2,4 & 6 :

- 1. AFSAL, AGED 22 YEARS,
S/O.KUNHABDULLA, THUNDIYIL HOUSE, CHEKKIADU,
AMSOM DESOM, VATAKARA TALUK.**
- 2. NAVAS, AGED 20 YEARS,
S/O.HASSAN, MECHIKKATU HOUSE, CHEKKIADU,
AMSOM DESOM, VATAKARA TALUK.**
- 3. YOUNAS, AGED 25 YEARS,
S/O.AHAMMAD, PALOLL HOUSE, PARAKKADAVU,
AMSOM DESOM, VATAKARA TALUK.**
- 4. SAJEER, AGED 20 YEARS,
S/O.ALIHAJI, KALLUKOTHIYIL HOUSE,
CHEKKIADU AMSOM DESOM, VATAKARA TALUK.**

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENT(S)/COMPLAINANT :

- 1. ANEESHAN, AGED 28 YEARS, S/O.KUNHIRAMAN,
KALLIL THAMASIKKUM CHIERIYA KUNNUMMAL HOUSE,
PARAKKADAVU AMSOM, THANAKKOTUR DESOM,
VATAKARA TALUK, PIN- 673 101.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, PIN- 682 031.**

R1 BY ADV. SMT.P.A.ANEESHA

R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE I: TRUE COPY OF THE FINAL REPORT IN
 CRIME NUMBER 162/2012 OF VALAYAM POLICE STATION.**
- ANNEXURE II: TRUE COPY OF THE ORDER IN CRL.M.C NO.299/15 OF
 THIS HONOURABLE COURT.**
- ANNEXURE III: TRUE COPY OF THE SWORN AFFIDAVIT OF FIRST
 RESPONDENT.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Dated this the 17th day of August, 2015.

ORDER

The petitioners herein are the accused Nos.1, 2, 4 & 6 in the impugned Anx-I final report/charge sheet filed in Crime No.162/2012 of Valayam Police Station, registered for offences punishable under Secs.143, 147, 148, 341, 323, 324, 153A & 308 r/w 149 IPC. Altogether there were 7 accused persons in the crime and later the case against the petitioners was split up and later re-numbered as C.P.No.90/2014 on the file of the Judicial First Class Magistrate Court, Nadapuram. The case against the other accused persons (A3, A5 & A7) proceeded after commitment to the Sessions Court and the Sessions Court has found that the ingredients of Sec.308 IPC is not attracted and therefore the case in respect of other offences were not triable by the Sessions Court and the matter was accordingly send back to the Judicial First Class Magistrate Court, Nadapuram and the case was tried as

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C.C.No.1825/2014 and the entire impugned criminal proceedings were challenged before this Court on behalf of the all the 7 accused in Crl.M.C.No.299/2015 in which this Court as per order dated 16.1.2015 has quashed the impugned criminal proceedings including the proceedings in C.C.No.1825/2014. The 4 petitioners herein are also the 4 accused out of the 7 petitioners in Crl.M.C.No.299/2015. However, since the details in regard to the petitioner's case in C.P.No.90/2014 on the file of the Judicial First Class Magistrate Court, Nadapuram was not specifically mentioned in that Crl.M.C, the learned Magistrate is not prepared to act upon that judgment as regards the criminal proceedings as against these petitioners, it is stated. As the impugned criminal proceedings have already been quashed in Anx-A2 judgment and due to lacuna the specific details of C.P.No.90/2014 was not mentioned, it is not proper for the Magistrate in refusing to accep Anx-A2 judgment passed by this Court in exercise of the powers conferred on this Court under Sec.482 of the Cr.P.C. Accordingly, it is made clear in this order that the quashment granted by this Court in

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Anx-A2 judgment dated 16.1.2015 in Crl.M.C.No.299/2015 would also relate to the quashment of the impugned criminal proceedings pending against the petitioners herein including that arose out of C.P.No.90/2014 on the file of the Judicial First Class Magistrate Court, Nadapuram.

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

ALEXANDER THOMAS,
Judge.

bkn/-