

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

CrI.MC.No. 5374 of 2015 ()

**MC.NO. 55/2015 OF SUB. DIVISIONAL MAGISTRATE COURT, FORT KOCHI
CRIME NO. 55/2015 OF KALAMASSERY POLICE STATION, ERNAKULAM**

PETITIONERS/COUNTER PETITIONERS :

1. **K.G ASHOKAN**
S/O. GOPALAN, THIRUVATHIRA HOUSE, UNICHIRA
CHANGAMPUZHA NAGAR P.O.
2. **K.C. PETER**
S/O. CHERIAN, KEEAMKUZHY HOUSE, KOVAPPADY
PERUMBAVOOR.
3. **C.M. SASI**
S/O. MADHAVAN, CHERATTU HOUSE, VIFAKKUZHA
KALAMASSERY
4. **MOHANKUMAR**
S/O. NARAYANA PILLAI, MULLAKKAL HOUSE,
NAD P.O.
5. **ABDUL SALAM K.A.,**
S/O. ABOOBACKER, KUDILINGAPARAMBIL,
NOCHIMA, ALUVA
6. **ABDUL RAHIM P.K.,**
S/O. KOCHAHAMMED, PAYYAPPILLY HOUSE,
VIDAKKUZHA, KALAMASSERY.
7. **P.M. SHEMEER**
S/O. MUHAMMEDALI, MEENTHARAKKAL HOUSE,
HMT COLONY P.O.
8. **SIVAN**
S/O. AYYAPPAN, KIODANGETHPARAMBU HOUSE,
VIDAKKUZHA, KALAMASSERY

9. K.P. VIJAYAN
S/O. PARAMESWARAN NAIR,
PALAYATH HOUSE, VIDAkkUZHA
KALAMASSERY.
10. P.K. SASIKUMAR
S/O. KOCHAYYAPPAN, PUTHENPURAYIL HOUSE,
PATTANAKKAD, CHERTHALA
11. P. PADMAKUMAR
S/O. GOPINATHAN NAIR, NANDANAM HOUSE, KADAMBOOR ROAD
U.C. COLLEGE P.O., ALUVA
12. SUKUMARAN
S/O. PRABHAKARAN, AMBATTUPARAMBIL HOUSE
ASHOKAPURAM, ALUVA.
13. NOORUDHEEN
S/O. KUNJUMAKKO, NOOR MAHAL, THURUTH
ALUVA.
14. V.K. YOUSAF
S/O. KHALID, VELLORKODATH HOUSE,
NOCHIMA, KOMBARA, ALUVA.
15. SAFEER M.M.,
S/O. MUHAMMED KUNJU, PALAIKKAMATTOM,
MANATHUPADAM ROAD, CHANGAMPUZHA NAGAR,
KALAMASSERY.
16. HYDROSE
S/O KOCHAHAMMED, MOONNEPILLY HOUSE,
VIDAKKUZHA, KALAMASSERY.
17. JIYAS
S/O. JAMAL CHERATTU HOUSE,
VIDAKKUZHA, KALAMASSERY.
18. SHIJU
S/O. JABBAR, KANICVHATTU HOUSE,
VIDAKKUZHA.

BY ADV. SMT.O.H.NAZEEBA

RESPONDENTS/STATE & ACCUSED :

**1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
(CRIME NO. 571/15 OF SUB INSPECTOR OF POLICE
KALAMASSERY POLICE STATION)**

**2. SUB DIVISIONAL MAGISTRATE
FORT KOCHI, PIN- 682 001.**

R1 & R2 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN

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

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APPENDIX

PETITIONERS' ANNEXURES :

- ANNEXURE A1:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 1ST PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A2:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 2ND PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A3:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 3RD PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A4:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 4TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A5:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 5TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A6:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 6TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A7:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 7TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A8:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 8TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A9:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 9TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A10:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 10TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A11:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 11TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.

- ANNEXURE A12:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 12TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A13:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 13TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A14:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 14TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A15:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 15TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A16:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 16TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A17:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 17TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.
- ANNEXURE A18:** COPY OF THE ORDER DT. 28/4/14 SERVED ON THE 18TH PETITIONER OF THE SUB DIVISIONAL MAGISTRATE, FORT KOCHI.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

Crl.M.C.No.5374 Of 2015

Dated this the 17th day of August, 2015.

ORDER

The matter in issue raised in this Criminal Miscellaneous Case is covered against the respondent-State by the legal principles laid down by this Court in Santhosh v. State of Kerala reported in 2014(3) KLT 837 as well as the judgment dated 19.12.2014 of this Court rendered in the case Sajeesh.K v. State of Kerala in Crl.M.C.No.7259/2014 and connected cases reported in 2014 SCC Online Ker. 27899 dealing with similar impugned proceedings under Sec. 107 of the Cr.P.C. The impugned order in this case is similar or almost identical to the one considered in the above said reported rulings of this Court.

2. Accordingly, in tune with the directions issued by this Court in the said reported decisions, the impugned order in this Crl.M.C is quashed with liberty to the Sub Divisional Magistrate concerned to take fresh action, if actually necessary, after

Crl.M.C.No.5374 Of 2015

complying with all the statutory procedural requirements and after applying the legal principles laid down in the aforementioned reported rulings of this Court and in accordance with law.

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

ALEXANDER THOMAS,
Judge.

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