

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

Crl.MC.No. 4252 of 2014

MC 406/2014 OF SUB DIVISIONAL MAGISTRATE COURT, KOLLAM.
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PETITIONER/ACCUSED:

**ANILKUMAR.A, AGED 40,
S/O.APPUKUTTAN PILLAI,
RESIDING AT PIRATHAMURIYIL,
MADAPPALLY, CHAVARA VILLAGE,
KARUNAGAPPALLY, KOLLAM.**

BY ADV. SRI.K.SUBASH CHANDRA BOSE

RESPONDENT/STATE:

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

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 14-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE-I :** TRUE COPY OF ORDER DATED 30-03-2013 CANCELLING THE DOCUMENT ISSUED IN FAVOUR OF SMT.SREEDEVI.
- ANNEXURE-II :** TRUE COPY OF THE JUDGMENT IN W.P(C)29656 OF 2012 DATED 19-7-2013.
- ANNEXURE-III :** TRUE COPY OF THE FIR NO.733 OF 2014 OF CHAVARA POLICE STATION LODGED WITH THE SUB DIVISIONAL MAGISTRATE COURT, KOLLAM.
- ANNEXURE-IV :** TRUE COPY OF THE ORDER IN M.C.406 OF 2014 DATED 28-5-2014 ISSUED TO THE PETITIONER.
- ANNEXURE-V :** TRUE COPY OF THE REPRESENTATION DATED 7-7-14 SUBMITTED BEFORE THE CHAIRMAN, DISTRICT POLICE COMPLAINT AUTHORITY,KOLLAM.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

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Crl.M.C. No.4252 of 2014 F
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Dated this the 14th day of October, 2015

ORDER

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Annexure-IV passed by the learned Sub Divisional Magistrate, Kollam for initiating steps against the petitioner under Section 117 Cr.P.C. is under challenge.

2. Through Annexure-IV, the learned Sub Divisional Magistrate has held that the petitioner is an accused in Crime No.513/2004 of Chavara Police Station. It has also been observed that Crime No.513/2004 was registered on the basis of various petitions received by one Sankarapillai, Additional Sub Inspector, Rajendranpillai, Sub Inspector and Shaji G., Additional Sub Inspector of Police, Chavara Police Station. According to the learned Sub Divisional Magistrate, the petitioner is of aggressive nature and has been

committing crimes repeatedly and threatening witnesses, etc.

3. On going through the contents of Annexure-IV, it is evident that there are no sufficient grounds for issuing Annexure-IV. A copy of the FIR in Crime No.513/2004 of Chavara Police Station has been produced by the petitioner, which shows that as against 15 identifiable persons of the Hindu community, the said crime was registered for the offences under Sections 143, 147 and 153A read with Section 149 IPC. For passing an order under Section 107 (1) Cr.P.C., the learned Sub Divisional Magistrate should have been satisfied that the petitioner is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion breach of the peace or disturb the public tranquility. Here, there is nothing to show that the learned Sub Divisional Magistrate has received any reliable information to that effect. Apart from the one crime registered as aforesaid, no other crimes were

registered against the petitioner. Even on going through the FIR in Crime No.513/2004, apart from some vague allegations, no specific allegations are there as against the petitioner. No specific overt act has been alleged against the petitioner. Matters being so, Annexure-IV is not legally sustainable and is liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure-IV order passed by the learned Sub Divisional Magistrate, Kollam, is quashed.

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

aks/14/10

*// True Copy //*

*PA to Judge*