

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Crl.MC.No. 5677 of 2015

**CMP.NO.667/2015 IN C.C.348/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
KAYAMKULAM.**

PETITIONER(S)/COMPLAINANT:

**D.CHANDRABABU, AGED 49 YEARS,
S/O.DIVAKARAN, KULATHINTEKIZHAKETHIL,
VERUVALLI BHAGAM MURI, KEERIKKAD VILLAGE,
KARTHIKAPALLY TALUK, KAYAMKULAM-690572.**

BY ADV. SRI.P.N.MOHANAN

RESPONDENT(S)/ACCUSED:

- 1. AJIKUMAR, T.C.51/1750, NEMON TALUK,
THIRUVANANTHAPURAM-695020
(PROGRAMME STAFF, KIRAN TV-AN ENTERTAINMENT
CHANNEL OF SURYA T.V.THIRUVANANTHAPURAM).**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**

R1 BY PUBLIC PROSECUTOR SMT.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONERS' ANNEXURES

- A1: COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE COURT
BELOW**
- A2: COPY OF THE OBJECTION DATED 7/2/15 FILED BY THE ACCUSED**
- A3: ORIGINAL COPY OF THE ORDER DATED 7/7/15**

RESPONDENTS' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

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Crl.M.C. No. 5677 of 2015

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Dated this the 18th day of December, 2015

ORDER

Heard the learned counsel for the petitioner.

2. It is a prosecution for the offence under Section 497 IPC. The petitioner has got a specific case that the diary in question was written in the handwriting of his wife and it contains her personal details as well as the name of the accused. When she was examined as witness, she had denied her handwriting and authorship of the diary.

3. The petitioner wanted to send the diary to the Forensic Science Laboratory for getting it examined for proving the handwriting of his wife. The court below has denied the request through Annexure-A3 order by stating that the writings in the diary does not contain

the name of the accused. The learned counsel for the petitioner has pointed out that it contains the name of the accused. Further, the diary contains the personal details of the wife of the petitioner also.

4. Over and above the said ground, the court below has relied on another ground that there was direction from this Court through an Official Memorandum to dispose of the case on or before 31.12.2015. Justice should not be denied merely because of such an Official Memorandum. This is a fit case wherein the said diary has to be sent for examination of handwriting of the wife of the petitioner. Annexure-A3 is not legally sustainable and the same is liable to be quashed.

In the result, this Crl.M.C is allowed and Annexure-A3 order stands quashed. CMP No.667/2015 of the court below stands allowed. The court below shall obtain the specimen handwriting of the said witness, who is the wife of the petitioner. Along with it, the

court below shall forward the diary as well as admitted handwriting of the wife of the petitioner to the Forensic Science Laboratory for comparison and report. Further time is granted to the court below for the disposal of the case.

Sd/-
B.KEMAL PASHA, JUDGE

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