

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

Crl.MC.No. 6091 of 2015

**SC 157/2004 OF ADDL. DISTRICT COURT-II, ERNAKULAM
CRIME NO. 285/2003 OF CBCID, ERNAKULAM**
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PETITIONER(S):

**ASHOKAN, S/O.THANKAPPAN,
CHARUVILA PUTHENVEETIL,
ANAKKUKZHY, NEMAM,
THIRUVANNATHAPURAM.**

BY ASHOKAN (PARTY IN PERSON)

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. THE DY. SUPERINTENDENT OF POLICE,
CRIME BRANCH CID, ERNAKULAM.**

BY SENIOR PUBLIC PROSECUTOR SRI.C.RASHEED

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
18-09-2015, ALONG WITH CRMC. 6092/2015, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 6091 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: TRUE COPY OF THE JUDGMENT IN SC.NO.157/2004 DTD.4.3.2005 OF
THE II ADDL. SESSIONS COURT, ERNAKULAM.**

**ANNEXURE A2: TRUE COPY OF THE JUDGMENT DTD.3.5.2009 OF THIS HONOURABLE
COURT IN CRL.APPEAL NO.819/2005.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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Crl.M.C. Nos. 6091 & 6092 of 2015

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Dated this the 18th day of September, 2015

ORDER

Petitioner in Crl.M.C.No. 6091/2015 is the 1st accused and petitioner in Crl.M.C.No.6092/2015 is the 2nd accused in Sessions Case No.157/2004 of the II Additional Sessions Court, Ernakulam, for the offences under Sections 120(b), 201, 302 and 306 read with Section 34 IPC.

2. It is a case wherein six persons lost their life. A conspiracy for committing suicide was staged by these petitioners. By falling into the trap, some of the persons committed suicide and the others were done away with by the petitioners. The petitioners were found guilty of the offences punishable under Sections 201, 306 read with Section 120B IPC and Section 302 read with Section 34 IPC.

The trial court sentenced them to undergo imprisonment for life and pay a fine of ₹10,000/- each, in default, to undergo simple imprisonment for one year each under Section 302 read with Section 34 IPC. They were further sentenced to undergo rigorous imprisonment for ten years and to pay a fine of ₹10,000/- each, in default, to undergo simple imprisonment for one year each under Section 306 read with Section 120B IPC. They were further sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹5,000/- each, in default, to undergo simple imprisonment for six months under Section 201 IPC. The sentences were ordered to run consecutively under Section 427 Cr.P.C.

3. The aforesaid conviction and sentences were challenged by the petitioners before this Court through Crl.Appeal No.819/2005. The Division Bench of this Court has fully concurred with the findings entered by the trial court in respect of the offences under Section 306 read

with Section 120B IPC and Section 302 read with Section 34 IPC. The conviction and sentence passed by the trial court for the offence under Section 201 IPC were set aside. The Division Bench of this Court has confirmed the sentences imposed by the trial court for the offences under Section 306 read with Section 120B IPC and Section 302 read with Section 34 IPC. The Division Bench of this Court has further ordered the sentence to run consecutively.

4. The present request of the petitioners through these Crl.M.Cs is to order sentences to run concurrently. This Court cannot interfere with the matter as the same has been finalised by the Division Bench of this Court through the judgment. The said judgment has become final and the same is not open to any further challenge.

5. Over and above it, through the proceedings under Section 482 Cr.P.C., the same is not open to challenge in view of the decision of the Apex Court in **M.R. Kudva v. State of Andhra Pradesh** [AIR 2007 SC 568]. Matters

being so, these Crl.M.Cs are devoid of merits and are only to be dismissed, and I do so.

In the result, these Crl.M.Cs are dismissed.

Sd/-
B.KEMAL PASHA, JUDGE

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