

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

Crl.MC.No. 6267 of 2015

**OS 789/2014 OF PRINCIPAL MUNSIFF, ALAPPUZHA
CC 165/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I, ALAPPUZHA
DATED 20-12-2014
CRIME NO. 1300/2014 OF ALAPPUZHA SOUTH POLICE STATION, ALAPPUZHA
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PETITIONER(S) 1-3/ACCUSED 1-3:

- 1. ABDUL RAHIMAN, AGED 55 YEARS,,
S/O.HYDROS, RESIDING AT KOLLASSERY, VATTAYAL WARD,
THIRUVAMBADI P.O., ALAPPUZHA.**
- 2. NASEEMA BEEVI, AGED 48 YEARS,
W/O.ABDUL RAHIMAN, RESIDING AT KOLLASSERY,
VATTAYAL WARD, THIRUVAMBADI P.O., ALAPPUZHA.**
- 3. ANEESH, AGED 28 YEARS,
S/O.ABDUL RAHIMAN, RESIDING AT KOLLASSERY,
VATTAYAL WARD, THIRUVAMBADI PO, ALAPPUZHA - 688 002.**

BY ADV. SRI.C.R.SANISH

RESPONDENT(S)/STATE AND DE FACTOR COMPLAINT:

- 1. STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
ALAPPUZHA SOUTH POLICE STATION,
(INVESTIGATING OFFICER IN ALAPPUZHA ,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN - 682 031.**
- 2. SUBEENA,
W/O.SHANAVAS, SIDAN MANZIL, VATTAYAL WARD,
THIRUVAMBADI P.O., ALAPPUZHA.**

R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE 1- THE CERTIFIED COPY OF THE FIRST INFORMATION REPORT
DATED 16.10.2014 IN CRIME NO.1300/2014 OF ALAPPUZHA SOUTH
POLICE STATION.**

**ANNEXURE 2- THE CERTIFIED COPY OF FINAL CHARGE DATED 20.12.2014
SUBMITTED BY THE FIRST RESPONDENT IN CC NO.165/2015 BEFORE
JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALAPPUZHA.**

**ANNEXURE 3- THE ORDER DATED 11.8.2014 BEARING NUMBER E5/26208/14 OF THE
SECRETARY ALAPPUZHA MUNICIPALITY.**

**ANNEXURE 4- THE TRUE COPY OF THE COMPLAINT DATED 22.8.2014 OBTAINED
THROUGH RTI ACT, FILED BY THE 2ND PETITIONER BEFORE THE SUB
INSPECTOR OF POLICE, ALAPPUZHA SOUTH POLICE STATION.**

**ANNEXURE 5- THE TRUE COPY OF THE RECEIPT OF THE COMPLAINT
DATED 22.8.2014 FILED BY THE 2ND PETITIONER BEFORE THE SUB
INSPECTOR OF POLICE, ALAPPUZHA SOUTH POLICE STATION.**

**ANNEXURE 6- THE TRUE COPY OF THE COMPROMISE ENTERED BETWEEN THE
DEFACTOR COMPLAINT AND THE 2ND PETITIONER DATED 5.9.2014 IN
THE COMPLAINT DATED 22.8.14.**

**ANNEXURE 7- THE TRUE COPY OF THE CMP 9625/2014 FILED BY THE DEFACTO
COMPLAINT BEFORE THE HONOURABLE JUDICIAL FIRST CLASS
MAGISTRATE COURT I, ALAPPUZHA.**

**ANNEXURE 8- THE TRUE COPY OF THE PLAINT IN OS 789 /2014 FILED BY THE 2ND
AND 3RD PETITIONERS HERE IN BEFORE THE HONOURABLE
MUNSIFF COURT, ALAPPUZHA.**

PETITIONER(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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CRL.M.C. No.6267 of 2015

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Dated this the 5th day of October, 2015

ORDER

The petitioners are the accused in C.C.No.165 of 2015 of the Judicial First Class Magistrate's Court-I, Alappuzha, which has arisen from Crime No.1300/2014 of the Alappuzha South Police Station, for the offences punishable under Sections 323, 427, 506(ii) and 294(b) IPC read with Section 34 IPC.

2. According to the petitioners, there is a civil dispute with regard to a compound wall, and that compound wall was unauthorisedly constructed by violating the norms of the Local Body. According to the learned counsel for the petitioners, there was a direction from the Local Body also to demolish the compound wall.

3. This is a matter in which a private complaint was

preferred by the defacto complainant, which was referred to the Police under Section 156(3) Cr.P.C. After investigation, Final Report has been filed. The learned counsel for the petitioners has pointed out that a civil suit is also pending in the matter.

4. Those things did not weigh with this Court at present to decide the merit or otherwise of the contents of the complaint as well as the Final Report. The present stage is too premature to consider the said question. This Court cannot go into the intrinsic particulars of the evidence collected by the investigating officer. Matters being so, this Crl.M.C. is only to be closed.

In the result, this Crl.M.C. is closed.

Sd/-

B. KEMAL PASHA
JUDGE

DSV/5/10/15

// True Copy //

PA. To Judge