

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

Cr1.MC.No. 5228 of 2014 ()

CRIME NO. 2274/2014 OF MUVATTUPUZHA POLICE STATION , ERNAKULAM

PETITIONER(S) /ACCUSED:

ADVOCATE P.R.RAJU, AGED 59 YEARS
S/O.KUTTAPPAN NAIR, NAMBIAMADATHIL HOUSE
PEZHAKKAPPILLY, MUVATTUPUZHA-686 673.

BY ADV. SRI.C.DILIP

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
MUVATTUPUZHA POLICE STATION
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

2. SMT.LATHA
W/O.DILIP, PRANAVAM HOUSE, THATTUPARAMBU BHAGAM,
PEZHAKKAPPILLY P.O., MUVATTUPUZHA-686 673.

R2 BY ADV. SRI.JOSEPH GEORGE (MULLAKKARIYIL)
R1 BY PUBLIC PROSECUTOR SMT.M.G.LISHA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
04-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE-A1. TRUE COPY OF THE COMPLAINT DATED 1/9/2014 SUBMITTED
BY THE PETITIONER BEFORE THE DY.S.P.MUVATTUPUZHA.

ANNEXURE-A2. TRUE COPY OF THE FIR NO.2274/2014 DATED 3/9/2014 OF
MUVATTUPUZHA POLICE.

ANNEXURE-A3. TRUE COPY OF THE FI STATEMENT IN CRIME NO.2274/2014
DATED 3/9/2014 OF MUVATTUPUZHA POLICE STATION.

ANNEXURE-A4 CERTIFIED COPY JUDGMENT DATED 26.3.2015 IN
O.S.NO.54/2014 ON THE FILE OF SUB COURT, MUVATTUPUZHA.

ANNEXURE-A5 CERTIFIED COPY OF FINAL REPORT DATED 25.11.2014
SUBMITTED BY THE POLICE BEFORE FCMC, MUVATTUPUZHA.

RESPONDENT(S) ' EXHIBITS : NIL

/TRUE COPY/

P. A. TO JUDGE

SUNIL THOMAS, J.

Crl. M. C. No. 5228 of 2014

Dated this the 4th day of December, 2015

O R D E R

The sole accused in Crime No.2274/2014 of the Muvattupuzha Police Station who stands indicted for offence punishable under Sections 323, 341 & 308 IPC, is the petitioner herein. The allegation of the defacto complainant, who is the sister of the petitioner herein is that, on 01.09.2014 at about 10.30 a.m., she had gone to the office of the petitioner herein, wherein they picked up a quarrel and the accused allegedly threatened, abused and later hit with an iron rod. She was taken to the hospital thereafter and after initial treatment, discharged on the same day. The FIS was laid on 03.09.2014 and the crime was registered. The petitioner thereafter approached this Court invoking Section 482 of the Cr.P.C. contending that, the continuance of the proceedings in the crime is an abuse of Process of Law and may result in manifest injustice and sought to quash the proceedings.

2. Pending the proceedings, the final report was laid by the Police, which is now produced as Annexure A5. Though notice was served on the 1st respondent and she appeared through a

counsel, at the time of hearing, it was submitted that the counsel had relinquished the vakalath with intimation to the 1st respondent.

3. Heard the learned counsel for the petitioner and the learned counsel Public Prosecutor. Examined the records.

4. The learned counsel for the petitioner, heavily relying on Annexure A2 FIR, contended that *prima facie* the FIR is highly suspicious. It was submitted by the learned counsel that in Column No.1 against the date of FIR, there was a correction of date as 03.09.2014. According to the counsel, in a computer generated FIR, such a mistake cannot occur and that casts serious doubt on the Police case. Though such a correction is seen on the record, I am not inclined to accept the argument of the learned counsel for the respondent for the precise reason that in Column No.3(b), the date is again mentioned as 03.09.2014 which is without any correction. Consequently, the alleged corrections of digit 3 seen in Column No.1 cannot be a correction at all. The learned counsel further contended that, the date shown at the top of page 2 of Annexure 2 was 04.09.2014 and if the FIR was registered actually on 03.09.2014, the computer generated copy cannot have a date of 04.09.2014. The learned counsel

persuasively argued that, it casts serious doubt regarding the FIR and even the possibility of an anti-dated FIR cannot be ruled out. Evidently, the FIR reached the Court only on 05.09.2014 as evident from the endorsement of the FIR. The question whether the copy that was submitted before the Court was a computer generated copy of the original FIR taken on 4th or whether it was registered on 4th anti dated as 3rd is also not clear. Ultimately it is for the Police to explain. It is a matter that requires evidence.

5. Yet another argument of the learned counsel for the petitioner was that, the date of receipt of information at the Police Station was shown as 03.09.2014 and the time as 7.50 p.m. However, FIS itself indicates that her statement was recorded at 2 p.m. on that day. The learned counsel further pointed out that, in the final report filed by the Police, the date of occurrence was shown as 01.09.2014 at 10.30 hours.

6. A statement has been filed by the 1st respondent as directed by this Court, touching upon the specific allegations mentioned above. The Sub Inspector of Police has stated that the third item in FIR in Crime No.2274/2014, time of information received was mentioned as 03.09.2014 at 7.50 p.m. But in the last page of the FIR it was stated that statement was recorded at

2 p.m. on 03.09.2014. It was stated that FIS was given at 2.00 p.m. on 03.09.2014. As per the FI Statement, FIR was registered at Police Station at 7.50 p.m. on the same day. According to the Sub Inspector, the time mentioned in Column No.3(a)1(b) of FIR was nothing but the time of registering the FIR. It is true that the above time of 7.50 p.m. against 03.09.2014 is shown as the time and date of receipt of information at the Police Station and not the time when FIR was registered. Regarding the date of registration of the FIR there is a separate Column.

7. No doubt there appears to be few discrepancies in the date and time mentioned therein. At the most, it may raise some doubt regarding the actual time of receipt of information, the actual time of registering the FIR and also forwarding the copy to the Court. Evidently it is for the prosecution to explain. It is too early at this stage to presume that the prosecution may not be able to convincingly explain it. The doubts raised now merely on the basis of certain alleged discrepancies in the few entries in FIR by itself does not constitute the requisite grounds for invoking the jurisdiction of the Court under Section 482 of the Cr.P.C.

8. Hence I am not inclined to grant any relief to the petitioner at this juncture. However, it is made clear that all

arguments that he has advanced at this stage can be raised before the trial Court also.

The petition fails and it is dismissed.

Sd/-

SUNIL THOMAS, JUDGE.

/true copy/

P. A. to Judge

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