

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

Crl.MC.No. 6430 of 2015 ()

**MC.NO. 83/2015 OF SUB DIVISIONAL MAGISTRATE'S COURT, KASARAGOD AT
KANHANGAD**

PETITIONER :

**MUHAMMAD AJMAL
S/O.ISMAIL, AGED 21 YEARS
RESIDING AT SHEIKKIN KADAVATHU HOUSE
KOLAVAYAL P.O., NEAR IQBAL HIGHER SECONDARY SCHOOL
AJANUR VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.MADHU
SMT.C.R.SARADAMANI**

RESPONDENTS/STATE :

- 1. THE SUB DIVISIONAL MAGISTRATE KASARAGOD AT KANHANGAD
OFFICE OF THE SUB DIVISIONAL MAGISTRATE
KASARAGOD AT KANHANGAD, KANHANGAD P.O.
KASARAGOD DISTRICT - 671121.**
- 2. THE SUB INSPECTOR OF POLICE
HOSDURG POLICE STATION,
KASARAGOD DISTRICT- 671123.**
- 3. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM- 682031.**

R1 TO R3 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...2/-

Crl.MC.No. 6430 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE-A1: THE CERTIFIED COPY OF THE ORDER DATED 25.2.2015 IN
 M.C.NO.83/2015 ON THE FILE OF THE SUB DIVISIONAL
 MAGISTRATE'S COURT, KASARAGOD AT KANHANGAD.**

RESPONDENT(S)' ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

.....
CRL. M.C. No. 6430 of 2015
.....

Dated this the 16th day of October, 2015

ORDER

Annexure A1 order, dated 25.02.2015 passed by the learned Sub Divisional Magistrate, Kasaragod in M.C.No.83 of 2015 registered for the offence punishable under Section 107(1) Cr.P.C., is under challenge.

2. According to the learned Sub Divisional Magistrate, the records before him reveal that the petitioner is likely to cause breach of peace and disturb public tranquility. It is a fact that the petitioner is one of the accused in two crimes; one crime was of the year 2013 of the Hosdurg Police Station as Crime No.184/2013 registered for the offences punishable under Sections 143,

147, 148, 448 and 427 read with Section 149 IPC. The other crime is of the year 2015, registered as Crime No.31/2015 of the said police station for the offences punishable under Sections 341, 323, 324 and 308 read with Section 34 IPC. Injury to a person is alleged only in the second crime of the year 2015. The other crime was relating to mischief by an unlawful assembly. In the second crime also there are more than one accused as Section 34 IPC has also been incorporated.

3. In order to pass an order under Section 107(1) based on Section 111 Cr.P.C., the Sub Divisional Magistrate should be satisfied that the person, against whom such proceedings are initiated, is likely to commit breach of peace or disturb public tranquility or to do a wrongful act that may probably cause breach of peace or disturb public tranquility. The mere fact, that the petitioner happened to be the accused in the aforesaid two crimes described above, itself is not sufficient to have a satisfaction that he is likely to

cause breach of peace or disturb public tranquility. Matters being so, Annexure A1 seems to be too premature and without any basis, and is not based on proper satisfaction. Therefore, Annexure A1 order dated 25.2.2015 passed by the court below is liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure A1 order dated 25.2.2015 and all further proceedings against the petitioner in M.C.No.83/15 pending before the Sub Divisional Magistrate's Court, Kasaragod, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge