

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

Cr1.MC.No. 5240 of 2014 ()

CC 640/2011 of J.M.F.C.-I, NEYYATTINKARA

PETITIONER(S)/ACCUSED 1-3:

1. RUSSEL.N
SAILENDAM, C.S.I CHURCH JUNCTION, KALLAYAM P.O.
THIRUVANANTHAPURAM.

2. PREMACHANDRAN N.,
UTHARA, V.NAGAR, PANGODU
THIRUMALA P.O., THIRUVANANTHAPURAM.

3. ASHOKAN B.,
ROHINI BHAVAN, NEERAMANKARA, KAIMANAM
THIRUVANANTHAPURAM.

BY ADVS.SRI.MATHEWS K.PHILIP
SMT.T.MANASY

RESPONDENT(S)/COMPLAINANT:

1. JUSTIN RAJ D.S.,
JINI BHAVAN, MALAMCHUTTU, PARASUVAIKAL
PARASUVAIKAL P.O., THIRUVANANTHAPURAM - 695 016.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA - 682 031.

R1 BY ADVS. SRI.KOSHY GEORGE
SMT.LATHA PRABHAKARAN
R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' ANNEXURES :

- A1: TRUE COPY OF THE COMPLAINT FILED BY THE 1ST RESPONDENT BEFORE THE JFCM I, NEYYATTINKARA CC 640/11.
- AII: SERIES: TRUE COPY OF THE DEPOSITION OF CWI TO CW3 IN C.C.640/11.
- AIII: TRUE COPY OF THE DUTY CERTIFICATE ISSUED BY AGM (ADMN) BSNL DATED 9/6/2014 TO THE 1ST PETITIONER
- AIV: TRUE COPY OF THE LOG BOOK OF KL-01AA 2622.
- AV: TRUE COPY OF THE JUDGMENT IN WPC 28/06 ON THE FILE OF HIGH COURT OF KERALA.
- AVI: TRUE COPY OF THE JUDGMENT IN WPC 14465/07 ON THE FILE OF HIGH COURT OF KERALA.
- A VII: TRUE COPY OF THE ORDER DATED 13/2/09 IN TA.130/08 ON THE FILE OF CAT ERNAKULAM BENCH.
- A VIII: TRUE COPY OF THE ORDER DATED 2/7/10 IN OA. 464/09 ON THE FILE OF CAT ERNAKULAM BENCH.
- A IX: TRUE COPY OF THE ORDER DATED 21/6/12 IN OA 687/2010 ON THE FILE OF CAT ERNAKULAM BENCH.
- AX: TRUE COPY OF THE ORDER DATED 30/5/12 IN O.A 912/2010 ON THE FILE OF CAT ERNAKULAM BENCH.
- AXI: TRUE COPY OF THE ORDER IN CRIMINAL M.C. 1743/07 DATED 24/9/12 ON THE FILE OF HIGH COURT OF KERALA.
- A XII: TRUE COPY OF THE ORDER IN CRIMINAL M.C. 1996/07 DATED 15/6/2009 ON THE FILE OF HIGH COURT OF KERALA.
- AXIII: TRUE COPY OF THE JUDGMENT IN CC.1386/04 DATED 29/6/08 ON THE FILE OF JFCM I, NEYYATTINKARA.
- A XIV: TRUE COPY OF THE ORDER DATED 14/9/10 PASSED BY THE DISCIPLINARY AUTHORITY AGAINST THE 1ST RESPONDENT
- A XV: TRUE COPY OF THE PUNISHMENT ORDER DATED 28/9/2012 PASSED BY THE DISCIPLINARY AUTHORITY AGAINST THE 1ST RESPONDENT.
- A XVI: TRUE COPY OF THE APPRECIATION ISSUED TO THE 2ND PETITIONER DATED 31/5/2010.
- A XVII: TRUE COPY OF THE INFORMATION RECEIVED BY THE 2ND PETITIONER UNDER THE RIGHT TO INFORMATION ACT.

A XVIII: TRUE COPY OF THE DUTY CERTIFICATE ISSUED BY PGM
BSNL TRIVANDRUM DATED 28/4/2014 TO 2ND PETITIONER

A XIX: TRUE COPY OF THE PUNISHMENT ORDER DATED 10/7/09
ISSUED TO THE 1ST RESPONDENT.

A XX: TRUE COPY OF THE PUNISHMENT ORDER DATED 25/1/2010
ISSUED TO THE 1ST RESPONDENT.

A XXI: TRUE COPY OF THE PUNISHMENT ORDER DATED 14/9/2010
ISSUED TO THE 1ST RESPONDENT.

A XXII: TRUE COPY OF THE PUNISHMENT ORDER DATED 13/7/2009
ISSUED TO THE 1ST RESPONDENT.

A XXIII: TRUE COPY OF THE PUNISHMENT ORDER DATED 24/8/2012
ISSUED TO THE 1ST RESPONDENT.

A XXIV: TRUE COPY OF THE APPELLATE ORDER DATED 17/4/2013
ISSUED TO THE 1ST RESPONDENT IN RESPECT OF ANNEXURE
XXIII.

A XXV: TRUE COPY OF THE PUNISHMENT ORDER DATED 25/8/2012
ISSUED TO THE 1ST RESPONDENT.

A XXVI: TRUE COPY OF THE APPELLATE ORDER DATED 17/4/2013
ISSUED TO THE 1ST RESPONDENT IN RESPECT OF ANNEXURE
XXV.

A XXVII: TRUE COPY OF THE LETTER ISSUED BY THE 1ST
RESPONDENT TO PGM BSNL, TRIVANDRUM.

A XXVIII: TRUE COPY OF THE ORDER DATED 28/9/12 ISSUED TO
THE 1ST RESPONDENT

A XXIX: TRUE COPY OF THE LEGAL NOTICE DATED 26/7/2010
ISSUED BY ADVOCATE, AJIKUMAR

A XXX: TRUE COPY OF THE ORDER DATED 29/9/12 ISSUED TO THE
FIRST RESPONDENT

A XXXI: TRUE COPY OF THE DUTY CERTIFICATE DATED 29/4/14 TO
THE 3RD PETITIONER

A XXXII: TRUE COPY OF THE REGISTRATION CERTIFICATE OF
VEHICLE NO.KL-01 AA 2622.

RESPONDENT(S) ' ANNEXURES : NIL

//TRUE COPY//

P.A TO JUDGE.

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B. KEMAL PASHA, J.

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CRL.M.C. No. 5240 of 2014
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Dated this the 30th day of November, 2015

ORDER

Petitioners are the accused in C.C.No.640/2011 of the Judicial First Class Magistrate's-I, Court, Neyyattinkara, which is as a result of a private complaint filed by the 1st respondent herein as complainant against the petitioners herein as accused.

2. The case of the complainant is that on 11.02.2010, while he was going out from the court compound of the Judicial First Class Magistrate's Court-V, Neyyattinkara, after attending S.T No.1859/2007, which was also a case in which he was the complainant, these petitioners came by car bearing Registration No.KL-01 AA 2622 and rushed towards him. It is alleged that the 1st petitioner fisted on his left chest by asking him whether he would file cases against

the BSNL employees and then A3 fisted him on his right elbow and A2 fisted him on the back of his head, thereby committing offences punishable under Sections 341 and 323 read with Section 34 IPC.

3. According to the petitioners, the 1st respondent is a court-bird, who uses to file a series of false and frivolous complaints against the higher officers of the BSNL. The 1st respondent was also an employee of BSNL, against whom, disciplinary proceedings were initiated by the authorities. Irritated by it, the 1st respondent uses to prefer a series of private complaints against various officers of the BSNL. According to the petitioners, the present complaint is also a false one and unnecessarily, these petitioners have been implicated in such a false case foisted against them.

4. Heard the learned counsel for the petitioners and the learned counsel for the 1st respondent. Records have been perused.

5. The copy of the wound certificate of the 1st

respondent shows no external injuries. At that time, he had not even a case of complaint of pain. To the Doctor, he had mentioned that three persons who could be identified on sight inflicted harm on him. It cannot be believed that the 1st respondent, being an employee of the BSNL, was unaware of the identity of the petitioners, who are his higher officers in the BSNL.

6. The petitioners have produced the R.C particulars of vehicle numbered KL-01 AA 2622 as Annexure-XXXII, which shows that it is an omnibus. Annexure-IV is the copy of the log book of the vehicle, which shows that the vehicle was elsewhere at the time of the alleged incident.

7. Through Anneuxre – XI, this Court had quashed C.C.No.1076/2006 filed by the 1st respondent herein as complainant against some of the officers of the BSNL. Through Annexure – XII, this Court has quashed the proceedings in CMP No.7371/2006 of the Judicial Fist Class Magistrate's Court-I, Neyyattinkara, filed as a private

complaint by the 1st respondent as complainant against the Assistant General Manager of BSNL.

8. Annexures – III, XVIII and XXXI are duty certificates of the petitioners, which show that at the time of the alleged incident, they were on duty. It is evident that the 1st respondent is a court-bird, who has been frequently filing complaints against the higher officers of the BSNL. The present incident is also one which is nothing but the figment of the imagination of the 1st respondent. Unnecessarily, the 1st respondent is making use of courts to wreak vengeance on the higher officers of BSNL. The present private complaint is also nothing but an abuse of the process of the court. Courts are duty bound to protect innocent persons, against whom, such false complaints are being made. It is evident that C.C No.640/2011 of the Judicial First Class Magistrate's Court-I, Neyyattinkara is the result of a false complaint and therefore, all further proceedings in it are liable to be quashed.

In the result, this Crl.M.C is allowed and Annexure-I private complaint and all further proceedings in CC No.640/2011 of the Judicial First Class Magistrate's Court-I, Neyyattinkara, are hereby quashed.

Sd/-

B. KEMAL PASHA, JUDGE.

stu/30.11.2015.