

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE PUBAID

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

CrI.MC.No. 6592 of 2015

CC 691/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
PALAKKAD
CRIME NO. 81/2014 OF PALAKKAD TOWN SOUTH POLICE STATION, PALAKKAD

PETITIONER/3RD ACCUSED:

JISHNUMITHRA
AGED 28 YEARS
S/O.C.K.CHENTHAMARAKSHAN,
K.K.TOWER, WEST FORT ROAD
PALAKKAD TALUK, PALAKKAD DISTRICT.

BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA

RESPONDENTS/STATE & COMPLAINANT:

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- 1. STATE OF KERALA**
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM, PIN -682 031.
 - 2. STATION HOUSE OFFICER**
PALAKKAD TOWN POLICE STATION,
PALAKKAD,
PIN-678 001.
 - * ADDL. R3 IMPEADED**
 - 3. P.K. RUGMINI, AGE NOT KNOWN TO THE PETITIONER**
D/O. PANKAJAKSHAN NAIR
NJAVALLLOOR HOUSE
THIRUVALATHOOR P.O.,
KODUMBU,
PALAKKAD TALUK
PALAKKAD

*** ADDL. R3 IS IMPEADED AS PER ORDER DATED 16.10.2015 IN CRL. M.A.**
9842/2015

R1 & R2 BY PUBLIC PROSECUTOR SMT. M.T. SHEEBA

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

CrL.MC.No. 6592 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:-

- ANNX.I - A TRUE COPY OF THE FINAL REPORT IN CR.NO.81/2014 OF TOWN SOUTH POLICE STATION, PALAKKAD.**
- ANNX.II - TRUE COPY OF THE COMPLAINT FILED BY THE DE-FACTO COMPLAINANT**
- ANNX.III - THE AUTOMATED TIME-SHEETS PERTAINING TO THE WORK PERFORMED BY THE PETITIONER FOR THE PERIOD FROM 06.01.2014 TO 12.01.2014 AND FROM 13.1.2014 TO 19.1.2014**
- ANNX.IV - TRUE COPY OF THE PROCEEDINGS BEFORE THE SECRETARY, PALAKKAD MUNICIPALITY DATED 22.09.2014**

RESPONDENT(S)' ANNEXURES:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

P. UBAID, J.

Crl.M.C. No.6592 of 2015

Dated this the 30th day of November, 2015

O R D E R

The petitioner herein is the third accused in C.C. No. 691/2014 of the Judicial First Class Magistrate Court - III, Palakkad involving the offences under Sections 294(b), 506(i) and 509 of Indian Penal Code. The petitioner seeks orders quashing the prosecution against him on the ground that there is absolutely no material or allegation against him in the complaint, or in the final report submitted by the police, or in any other material. The third respondent herein is the de facto complainant who made complaint against the petitioner and his parents. They are the accused Nos. 1 and 2. In spite of notice, the de facto complainant did not turn up to contest this matter.

2. On hearing both sides and on a perusal of the materials like the complaint and the final report, I find that the prosecution does not have any definite allegation or material against this petitioner. The allegation as against this petitioner in the final report is that he and the second accused helped the first accused to commit the alleged offence. It is not known, and

explained how this petitioner helped the others, or how he abetted the commission of offence by the others. The final report does not show that the first accused is being prosecuted as principal offender and the others are being prosecuted as abettors. The final report is not definite as to how this petitioner is being prosecuted. If the allegation is that he abetted the commission of offence by the others, he must be prosecuted as an abettor, and not as a principal offender.

3. On a perusal of the Annexure II complaint made by the third respondent before the police, I find that her main grievance or allegations are against the first accused. The complaint does not specifically allege or explain what offence was exactly committed by this petitioner, or how he was involved in the alleged act of offence, or how he abetted, or how he otherwise helped the other accused in the alleged incident. In short, the prosecution against the petitioner is baseless. No doubt, continuance of this prosecution as against him will be an abuse of legal process. I find that the prosecution as against the petitioner is liable to be quashed on the ground that the prosecution does not have any material of any sort to implicate this petition.

In the result, the petition is allowed. The prosecution as against the petitioner herein as the third accused in C.C. No.

691/2014 of the Judicial First Class Magistrate Court - III, Palakkad will stand quashed under Section 482 Cr.P.C. The said prosecution will continue against the other accused.

P. UBAID, JUDGE

DCS