

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

Crl.MC.No. 6662 of 2015 ()

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C.C. NO.276/2005 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
THAMARASSERY.**

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PETITIONERS/ACCUSED:

- 1. VISWANATHA KURUPPU, AGED 62 YEARS,
S/O.LATE UNNI NAIR, FORMERLY WORKING AS
DY. SP, CBCID, KOZHIKODE, NOW RESIDING AT
"CHIRAG", KARANTHUR P.O., KOZHIKODE DISTRICT.**
- 2. K.R. PREMACHANDRAN, AGED 58 YEARS,
S/O.LATE UNNI NAIR, FORMERLY WORKING AS
CIRCLE INSPECTOR OF POLICE, NOW RESIDING AT
"SALABHAM", CIVIL STATION P.O., KOZHIKODE-20.**

BY ADV. SRI.JESWIN P.VARGHESE.

RESPONDENTS/COMPLAINANT:

- 1. T.P. CHANDRASEKHARAN,
S/O.GOVINDAN NAIR, CHOLAKKAL HOUSE,
KARANTHUR P.O., KOZHIKODE DISTRICT, PIN-673 571.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R1 BY ADV. SRI.N.V.P.RAFEEQUE

R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 11-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE-A1.** **A TRUE COPY OF THE PRIVATE COMPLAINT REGISTERED AS CC NO.276/2005 ON THE FILES OF THE JFCMC-II, THAMARASSERY.**
- ANNEXURE-A2.** **A TRUE COPY OF THE APPLICATION IN CRL.MP NO.4122/2015 FILED BY THE 1ST RESPONDENT DATED 04/07/2015.**
- ANNEXURE-A3.** **A TRUE COPY OF THE OBJECTIONS FILED BY THE PETITIONERS DATED 17/07/2015.**
- ANNEXURE-A4.** **THE CERTIFIED COPY OF THE ORDER PASSED BY JFCM COURT-II, THAMARASSERY IN CRL. MP NO.4122/2015 IN CC NO.276/2005 DATED 31/07/2015.**

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
Crl.M.C. No. 6662 of 2015
.....

Dated this the 11th day of December, 2015

ORDER

Annexure A4 passed by the Judicial First Class Magistrate's Court-II, Thamarassery is under challenge.

2. The complainant filed Crl.M.P. No.4122/2015 in C.C.No.276/2005 under Section 294 Cr.P.C. seeking the marking of some documents as part of evidence of the complainant. Even according to the court below, the other side objected to it on the ground that the document was very well available with the petitioners during the earlier stage of trial, and the same ought to have been produced earlier.

Precisely, it seems that the said document has not been admitted, whereas, it stands disputed. The court below went on to mark the document under Section 294 Cr.P.C.

3. The procedure contemplated under Section 294 Cr.P.C. has not been complied with by the court below in passing Annexure A4 order. First of all, the other party ought to have been called upon either to admit or deny the genuineness of such evidence. Where genuineness is not disputed, then only such document could be marked. Matters being so, the court below has committed an error in passing Annexure A4 order. It is true that it is a very old matter. The court below shall take expeditious steps to get the said document properly proved and to dispose of the case expeditiously.

In the result, this Crl.M.C. is allowed and Annexure A4 order passed by the Judicial First Class Magistrate's Court-II, Thamarassery stands set aside. The court below is directed to take expeditious steps to get the above said

document properly proved, and to dispose of the case expeditiously.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge