

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Crl.MC.No. 6760 of 2015 ()

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MC. NO.203/2015 OF SUB DIVISIONAL MAGISTRATE COURT, FORT KOCHI.**

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PETITIONER/COUNTER PETITIONER:

**KRISHNAKUMAR, KANGATTUVEETIL,
NJARAKKALKARAYIL, NJARAKKAL,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.T.V.JAYAKUMAR NAMBOODIRI,
SRI.T.SAJI.**

RESPONDENTS/COMPLAINANTS:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**
- 2. SUB DIVISIONAL MAGISTRATE,
FORT KOCHI, ERNAKULAM DISTRICT- 682 002.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE I: TRUE COPY OF THE ORDER DATED 07.08.2015.

**ANNEXURE II: TRUE COPY OF THE RELEVANT PAGES OF THE
FIRST INFORMATION DATED 06/08/2014.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

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Crl.M.C. No.6760 of 2015 D
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Dated this the 30th day of October, 2015

ORDER

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Annexure-I preliminary order passed by the learned Sub Divisional Magistrate, Fort Kochi purportedly one under Section 111 Cr.P.C., is under challenge. Proceedings under Section 107 Cr.P.C. have been sought to be initiated through M.C.203/2015. On getting the complaint, the learned Sub Divisional Magistrate has chosen to pass Annexure-I order.

2. It has come out that the petitioner became accused in Crime No.1177/2014 of Njarakkal Police Station along with sister, for the offences punishable under Sections 342 and 323 read with Section 34 IPC. There was a dispute regarding a pathway by the petitioner with the de facto complainant in Crime No.1177/2014. It is alleged that the petitioner was beaten up by the said de facto complainant and others for which Crime No.1570/2014 was registered for the offences punishable under Sections 447, 427 and 326 read with Section 34 IPC.

3. Even then the police has chosen to initiate proceedings against the petitioner herein under Section 107 Cr.P.C. There should be satisfaction on the part of the learned Sub Divisional Magistrate for invoking the power under Section 111 Cr.P.C. that there is likelihood of breach of the peace and offence against public tranquility from the part of the petitioner for initiating proceedings under Section 107 Cr.P.C. Here, in this case, there was no such satisfaction apart from the fact that he happened to be an accused in the crime, in which two compoundable offences are there. There are no criminal antecedents on his part. Matters being so, there was no reason to pass Annexure-I order and, therefore, the same is liable to be quashed.

In the result, this CrI.M.C. is allowed and Annexure-I order is quashed.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/30/10

*// True Copy //*

*PA to Judge*