

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

Crl.MC.No. 6787 of 2015

**ORDER DATED 07-08-2015 IN MC 226/2015 of SUB DIVISIONAL MAGISTRATE COURT,
FORT COCHIN**
.....

PETITIONER(S)/COUNTER PETITIONER:

**HENDRY BASTIN, AGED 38,
S/O. MANUAL, VALLOMTHAYIL HOSUE, ALANGAD VILLAGE,
ERNAKULAM DISTRICT.**

BY ADV. SRI.K.S.RAJEEV (ALUVA)

RESPONDENT(S)/PETITIONER:

**STATE OF KERALA,
THROUGH SUB INSPECTOR OF POLICE,
ALUVA WEST POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-682 031.**

BY PUBLIC PROSECUTOR SMT. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
04-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 6787 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A: TRUE COPY OF COMPLAINT FILED BEFORE THE JUDICIAL FIRST
CLASS MAGISTRATE COURT-II, ALUVA.**

**ANNEXURE B: TRUE COPY OF THE REPRESENTATION SUBMITTED TO THE
SUPERINTENDENT OF POLICE, ERNAKULAM RURAL
DATED 16.10.2015.**

ANNEXURE C: TRUE COPY OF IMPUGNED ORDER DATED 7.8.15.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B.KEMAL PASHA, J.

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Crl.M.C. No. 6787 of 2015

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Dated this the 4th day of November, 2015

ORDER

The petitioner is challenging Annexure-C order passed by the learned Sub-Divisional Magistrate, Fort Kochi under Section 111 Cr.P.C. The Police has registered Crime No.357 of 2015 for initiating Section 107 Cr.P.C. proceedings against the petitioner as M.C.No.226 of 2015.

2. It seems that there were some disputes between the petitioner and one of her neighbours, which culminated in a complaint by a woman of the neighbourhood, consequent to which, Crime No.189 of 2015 of the Aluva West Police Station was registered against the petitioner. According to the petitioner, one of the Policemen of Aluva West Police Station was indulging in staging harassments towards the wife of the petitioner and consequently he had filed a complaint. He had

filed a private complaint before the Judicial First Class Magistrate's Court-II, Aluva as Crl.M.P.No.954 of 2015 against the said Policeman and others. Consequently, the case was taken on file as C.C.No.1306 of 2015. It is the case of the petitioner that the present M.C. proceedings are initiated for wrecking vengeance against the petitioner.

3. For initiating proceedings under Section 107 Cr.P.C., the Sub-Divisional Magistrate must be satisfied that there is likelihood of breach of the peace or commission of offence against the public tranquillity by the concerned person. In this case, it cannot be said that the learned Sub-Divisional Magistrate had any reliable information that there is likelihood of breach of the peace or commission of the offence against the public tranquillity by the petitioner. On hearing the learned counsel for the petitioner, learned Public Prosecutor and perusing the records this Court is satisfied that there was no reason at all for passing Annexure-C order. Annexure-C order

is devoid of merits and is only to be quashed.

In the result, this Crl.M.C. is allowed and Annexure-C order stands quashed.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/4/11/15

// True Copy //

P.A. To Judge