

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

CrI.MC.No. 5640 of 2014 ()

CRIME NO. 356/2011 OF KOTTAKKAL POLICE STATION , MALAPPURAM

PETITIONERS/ACCUSED 10 TO 15:

1. KADIYUMMA
D/O ERAMUTTI KARADAN HOUSE, THIROORANGADI
MALAPPURAM DISTRICT.
2. KUNJATHOOTTI AGED 46 YEARS
D/O ERAMUTTI, CHERUKAADU HOUSE, CHOONDAYIL
KOTTAKKAL, MALAPPURAM DISTRICT.
3. KHADEEJA AGED 42 YEARS
D/O ERAMUTTI, CHERUKAADU HOUSE, CHOONDAYIL
KOTTAKKAL, MALAPPURAM DISTRICT.
4. RAMLA AGED 32 YEARS
D/O ERAMUTTI, CHERUKAADU HOUSE, CHOONDAYIL
KOTTAKKAL, MALAPPURAM DISTRICT.
5. MUMTAZ AGED 28 YEARS
D/O ERAMUTTI, CHERUKAADU HOUSE, CHOONDAYIL
KOTTAKKAL, MALAPPURAM DISTRICT.
6. KUNHI MOYIDEEN AGED 51 YEARS
S/O ERAMUTTI, CHERUKAADU HOUSE, CHOONDAYIL
KOTTAKKAL, MALAPPURAM DISTRICT.

BY ADV. SRI.P.ANOOP (MULAVANA)

RESPONDENTS/COMPLAINANT AND STATE:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
2. MOHAMMED KUTTY, AGED 60 YEARS
S/O BEERAN KUTTY HAJI, ARIMANICHOLA HOUSE
PONMUNDAM AMSOM DESOM, MALAPPURAM DISTRICT.

R1 BY ADV. PUBLIC PROSECUTOR SRI.R.GITHESH
R2 BY ADV. SRI.S.RAJEEV
R2 BY ADV. SRI.K.K.DHEERENDRAKRISHNAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
17-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 5640 of 2014 ()

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE A1: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.356/2011
OF THE KOTTAKKAL POLICE STATION, MALAPPURAM DISTRICT.

RESPONDENTS' ANNEXURES : NIL

//TRUE COPY//

P.A.TO JUDGE

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SUNIL THOMAS, J.

Crl.MC No.5640 of 2014

Dated this the 17th day of August, 2015

ORDER

The petitioners are the accused numbers 10 to 15 in Crime No.356/2011 of the Kottakkal Police Station, for offence punishable under 143, 147, 148, 120 B, 451, 427, 380 r/w 149 of the Indian Penal Code and Sec 3(2) (e) of Prevention of Damage to Public Property Act.

2. The allegation of the prosecution is that, the de-facto complainant was one among the tenants of the building belonging to the accused numbers 10 to 15. It is stated that there were attempts to evict the tenants and apprehending forceful eviction, a suit was filed, and in the suit, an interim injunction was granted by the Civil court. Pending the suit, it is alleged that on 25.07.2011, accused nos.10 to 15 conspired with accused no.1 to 9, and the building was demolished and goods in the godown removed using a JCB. On the complaint filed, the police registered the above crime and there after, on completion of investigation, a final report laid.

3. The accused nos.10 to 15 have approached this court

seeking to quash Ext.A1 final report, in the above crime, in so far as it relates to the petitioners herein.

4.Heard both sides and the learned counsel for the de-facto complainant.

5. The allegation of the prosecution is that the conspiracy was hatched by land lords who are the accused nos.10 to 15, to forcefully evict the de-facto complainant using the accused numbers 1 to 9. Even after investigation, final report has been laid which indicate the conspiracy. Evidently the prosecution is alleging a conspiracy and in the absence of direct evidence, conspiracy will have to be gathered from the attending circumstances. In exercise of Jurisdiction under Section 482 of Cr.P.C, it is difficult to conclude that no conspiracy is made out at this stage. Consequently, I am not inclined to exercise jurisdiction under Section 482 Cr.P.C However it is made clear that this will not preclude the accused nos. 10 to 15 from seeking a discharge and to attempt to establish their case before the Trial Court.

6. The learned counsel for the petitioner herein sought a personal exemption of the accused from the court, who according to him are pardanasin ladies. They can move the appropriate court with appropriate application, which may be considered by the court below considering the above submission and available materials.

This Crl.MC is dismissed as above.

Sd/-
SUNIL THOMAS, JUDGE

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