

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Crl.MC.No. 6974 of 2015

**CC 2239/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TIRUR
CRIME NO. 18/2014 OF VALANCHERY POLICE STATION, MALAPPURAM**
.....

PETITIONER(S)/2ND ACCUSED:

**MUHAMMED ALI, AGED 55 YEARS,
S/O.ALI HAJI, THARAKKAL HOUSE, VENDALLOOR,
IRIMBILIYAM P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.K.RAKESH

RESPONDENT(S)/STATE:

**THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031,
FOR THE SUB INSPECTOR OF POLICE,
VALANCHERY POLICE STATION, MALAPPURAM DISTRICT.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
02-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 6974 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A: TRUE COPY OF THE FINAL REPORT/CHARGE IN CRIME NO.18/2014 OF
THE VALANCHERY POLICE STATION**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
CRL.M.C. No. 6974 of 2015
.....

Dated this the 2nd day of November , 2015

ORDER

Petitioner is the 2nd accused in C.C.No.2239/2014 of the Judicial First Class Magistrate's Court, Tirur, which has arisen from Crime No.18/2014 of the Valanchery Police Station, Malappuram District, for the offences punishable under Sections 182 and 109 of the Indian Penal Code, read with Section 34 IPC.

2. It seems that on the basis of the police report cognizance has been taken by the court below for the said offences as against the petitioner and the other accused. The cognizance itself is bad in view of Section 195(1)(a)(i) of IPC, since offences punishable under Sections 172 to 198 of the Indian Penal Code, the court shall not take

cognizance of any offence, except on the complaint in writing by the public servant concerned or some other public servant to whom he is administratively subordinate. A police report is not contemplated under the said provision, as far as the said offences are concerned. When cognizance is not taken on the basis of the complaint in writing of the said public servant or some other public servant to whom he was administratively subordinate, cognizance itself is bad in law.

3. Matters being so, Annexure A final report in Crime No.18/14 of the Valanchery Police Station, is also not legally sustainable. Therefore, all further proceedings in C.C.No.2239/14 of the Judicial First Class Magistrate's Court, Tirur based on Annexure A final report in Crime No.18/14 of the Valanchery Police Station, are liable to be quashed.

In the result, this CrI.M.C. is allowed and all further proceedings in C.C.No.2239/14 of the Judicial First Class Magistrate's Court, Tirur based on Annexure A final report in

Crime No.18/14 of the Valanchery Police Station, are hereby
quashed.

ul/-

Sd/- B.KEMAL PASHA, JUDGE

[True copy]

P.S. to Judge