

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

Crl.MC.No. 7108 of 2015 ()

**AGAINST THE ORDER IN CC 1216/2010 of J.M.F.C.,PERUMBAVOOR DATED
CRIME NO. 887/2010 OF PERUMBAVOOR POLICE STATION , ERNAKULAM**

PETITIONER(S):

- 1. SUBITH
S/O.SIVASANKARAN NAIR, KIZHAKKETH HOUSE, MANNOOR KARA
AIRAPURAM VILLAGE, ERNAKULAM DISTRICT.**
- 2. KOMALAVALLY
W/O.SIVASANKARAN NAIR, KIZHAKKETH HOUSE, MANNOOR KARA
AIRAPURAM VILLAGE, ERNAKULAM DISTRICT.**

BY ADV. SRI.M.V.JOY

RESPONDENT(S):

**STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.**

R BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04-12-`
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

avk

Crl.MC.No. 7108 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A. COPY OF THE ORDER SHEET IN CC 1216/10 ON THE FILE OF
THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST
CLASS 1, PERUMBAVOOR.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

avk

P.UBAID, J.

Crl.M.C.No.7108 of 2015

Dated this the 4th day of December, 2015

ORDER

The petitioners are the accused in C.C.No.1216/2010 of the Judicial First Class Magistrate Court-I, Perumbavoor. Their grievance is that the trial court has not yet commenced trial despite the fact that it is an old case and the trial court has not been initiating coercive steps to ensure the presence of material witnesses. The petitioners seek orders for expeditious disposal of the case. In fact, what the petitioners seek is an administrative order on judicial side. Such orders cannot be passed under Section 482 Cr.P.C. Under Section 482 Cr.P.C ,the High Court can pass only judicial orders within the limits prescribed thereunder. So this request is considered as one under Section 482 Cr.P.C.

2. As required by this Court, the learned Magistrate submitted a report regarding the present position there. It is reported that total pendency there is 12,086 cases. It is also reported that on some occasions

some attempts were made for conciliation and settlement of the dispute. But such attempts failed. Now the case stands posted to 8.1.2016. The learned Magistrate has reported that if the prosecution witnesses are promptly produced by the prosecution, the case could be disposed of within six months. The learned Magistrate cannot wait indefinitely with the hope that the prosecution will produce the witnesses. If any witness doesn't turn up or if the prosecution fails to produce the witnesses promptly, coercive measures will have to be taken by the Court to ensure the presence of witnesses. Attendance of witnesses cannot be at the mercy of the prosecution, or the Police officers. Anyway the report submitted by the learned counsel is is recorded and this Crl.M.C. is disposed of with direction to the learned Magistrate that earnest efforts shall be made to try and dispose of C.C.No.1216 of 2010 at the earliest, or if possible within 4 months from the date on which a copy of this order is received.

**Sd/-
P.UBAID
JUDGE**

//TRUE COPY//
PA TO JUDGE