

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Crl.MC.No. 5997 of 2014 ()

CRIME NO. 105/CR/HHW-III/2011/KKD OF CBCID, KOZHIKODE
REGISTERED ON TRANSFER OF CRIME NO. 36/2011 OF RAILWAY POLICE STATION,
KOZHIKODE.

PETITIONER/ACCUSED :

SUBASH
S/O. KRISHNAMOORTHY, AGED 34
ASSISTANT PROFESSOR
ELECTRICAL ENGINEERING DEPARTMENT
NATIONAL INSTITUTE OF TECHNOLOGY
CALICUT
(NOW UNDER SUSPENSION), MAVILA VEEDU, ROHINI
SINGLE STREET LINE, BALARAMAPURAM,
THIRUVANANTHAPURAM-695 001.

BY SENIOR ADVOCATE SRI.B.RAMAN PILLAI)
BY ADVS.SRI.R.ANIL
SRI.SUJESH MENON V.B.
SRI.TANIL KUMAR
SRI.MANU TOM
SRI.THOMAS ABRAHAM (NILACKAPPILLIL)
SRI.M.VIVEK

RESPONDENTS/COMPLAINANT :

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

*ADDL.R2 IMPEADED

*ADDL.R2. K. KRISHNAN NAIR
AGED 64 YEARS, S/O. KESAVAN NAIR
VAISAKH HOUSE, KMCRA 72, MOSQUE LANE
KUMARAPURAM, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM.

*IS IMPEADED AS ADDL. R2 AS PER ORDER DATED 4/2/2015 IN CRL.M.A.
NO. 945/15 IN CRL.MC.NO. 5997/2014.

R1 BY PUBLIC PROSECUTOR SRI.C. RASHEED
ADDL. R2 BY ADV. SRI.V.C.SARATH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 09-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES :

- ANNEXURE A : COPY OF THE RELEVANT PORTION OF THE FINAL REPORT
FILED BEFORE THE JFCM COURT-I, ALUVA, IN
105/CR/HHWIII/KKD/2011.**
- ANNEXURE B COPY OF THE CRL.M.P. NO. 36/2014 FILED BEFORE THE JFCM
COURT-I, ALUVA DATED 6-1-2014.**
- ANNEXURE C COPY OF THE REPORT FILED BY THE DEPUTY
SUPERINTENDENT OF POLICE, CBCID HHW-I,
THIRUVANANTHAPURAM DATED 11-2-2014.**
- ANNEXURE D COPY OF THE ADDITIONAL STATEMENT FILED BY THE
PETITIONER DATED 8-4-2014.**
- ANNEXURE E COPY OF THE ADDITIONAL STATEMENT FILED BY THE
PETITIONER DATED 23-4-2014.**
- ANNEXURE F COPY OF THE REPORT FILED BY THE DEPUTY
SUPERINTENDENT OF POLICE, CBCID HHW-I,
THIRUVANANTHAPURAM DATED 22-4-2014.**
- ANNEXURE G COPY OF THE REPORT FILED BY THE DEPUTY
SUPERINTENDENT OF POLICE, CBCID HHW-I,
THIRUVANANTHAPURAM DATED 28-5-2014.**
- ANNEXURE GI COPY OF THE REPORT FILED BY THE DEPUTY
SUPERINTENDENT OF POLICE, CBCID HHW-I,
THIRUVANANTHAPURAM DATED 28-5-2014.**
- ANNEXURE H COPY OF THE MEMO FILED BY THE PETITIONER BEFORE THE
JFCM COURT-I, ALUVA DATED 16-6-2014.**
- ANNEXURE I COPY OF THE REPORT FILED BY THE DEPUTY
SUPERINTENDENT OF POLICE, CBCID HHW-I,
THIRUVANANTHAPURAM DATED 24-6-2014.**

(Contd...)

**ANNEXURE J CERTIFIED COPY OF THE ORDER IN MP NO. 36 OF 2014 IN CP
NO. 53 OF 2013 OF THE JFCM-I, ALUVA DATED 15-7-2014.**

**ANNEXURE K CERTIFIED COPY OF ORDER IN CP NO. 53 OF 2013 OF THE
JFCM-I, ALUVA DATED 15-7-2014.**

RESPONDENT'S ANNEXURES :

ANNEXURE R1(a) : COOPY OF THE REPORT DATED 28.5.2014.

TRUE COPY//

P.A. TO JUDGE

Mn

B. KEMAL PASHA, J.

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Crl.M.C. No.5997 2014
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Dated this the 9th day of February, 2015

ORDER

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Petitioner is the accused in Crime No.105/CR/HHW-III/2011/KKD of CBCID, Kozhikode, which was initially registered as Crime No.36/2011 of the Railway Police Station, Kozhikode, presently pending as S.C.No.424/2014 before the Additional Sessions Court (W&C), Ernakulam.

2. The petitioner has sought for getting order dated 15.07.2014 in M.P.No.36/2014 produced as Annexure-J and the order of committal dated 15.07.2014 in C.P.53/2013, quashed and for a direction to the prosecution to furnish all the records claimed by the petitioner in Annexure-H memo.

3. Heard the learned Senior Counsel for the petitioner, learned counsel for the *defacto complainant* and the learned Senior Public Prosecutor.

4. The present concern expressed by the learned Senior Counsel for the petitioner is that the petitioner may not be able to defend the case properly as copies of many of the documents were not served. The learned Senior Public Prosecutor has submitted that the copies of almost all the documents have been served and the attempt of the accused is to drag the proceedings unnecessarily. It is further submitted that the copies of some of the documents and CDs produced as material objects could not be served on the accused as the witnesses in relation to those documents are not cited as charge witnesses in the case, and the prosecution does not propose to examine those witnesses. Over and above it, it has been pointed out that some of the CDs containing the scenes relating to the sexual contacts of the accused and the deceased, which were taken from the laptop of the deceased, and the copy of the same cannot be supplied. Whatever it is, now, the learned Additional Sessions Judge has to take a decision in

the matter when the case is pending before that court.

5. There is no reason to quash the committal order passed by the learned Magistrate. Regarding the other question relating to the copies of documents and material objects, the petitioner can raise that question before the learned Additional Sessions Judge and in such case, the court below shall take appropriate decision in the matter at the earliest, before framing charges.

With the said observations, this Crl.M.C. is disposed of.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/09/02

// True Copy //

PA to Judge