

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Cr1.MC.No. 7380 of 2015 ()

CC 9/2012 of JUDICIAL FIRST CLASS MAGISTRATE'S COURT, ANDROTH,
UNION TERRITORY OF LAKSHADWEEP

CRIME NO. 15/2006 OF KAVARATTI POLICE STATION, LAKSHADWEEP

PETITIONERS/ACCUSED:

1. HAMEED, AGED 37 YEARS,
S/O.KUNJI KOYA, ADIYATTIMEPURA,
RESIDING AT FATHIMA MANZIL, KAVARATTI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

2. RIYAZ KHAN, AGED 30 YEARS,
S/O.KOYAMMA KELLIYAM, RESIDING AT CHUNGHAM HOUSE,
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

3. NIZAMUDHEEN, AGED 37 YEARS,
S/O.NALLA KOYA VADAKKARAD, RESIDING AT CHETTUPURA,
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

4. SABEER, AGED 37 YEARS,
S/O SAYED MOHAMMED KAKKINIPURA,
RESIDING AT MULLIPURA, KAVARATTI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

5. NAZEER, AGED 33 YEARS,
S/O.MUTH KATTIKULAM, RESIDING AT SHAHANA MANZIL,
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

6. MOHAMMED SHAFI, AGED 31 YEARS,
S/O.BHASHA KUTTIPEPPURA, RESIDING AT POOVAMMADA,
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

7. ASHAR ALI, AGED 36 YEARS,
S/O.ALI KOORIYAM, RESIDING AT CHANDIPAPPADA,
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

8. ASHRAF, AGED 36 YEARS
S/O.KIDAVE PALLIYAPPURA, RESIDING AT CHAMAYATHAPURA
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

9. SHAHID, AGED 27 YEARS,
S/O.SEETHIKOYA THIRUVATHIPURA,
RESIDING AT SALAHIA MANZIL, KAVARATTI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

10. SADIQ, AGED 28 YEARS,
S/O.AHMED SAROMAPADA, RESIDING AT UMBIYAPURA,
KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP.

11. LUKMANUL HAKKIM, AGED 38 YEARS,
S/O.SAYED MOHAMMED, MELEKUNJADAM, KAVARATTI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

12. HIYASUDHEEN, AGED 39 YEARS,
S/O.ABDURAHIMAN, ATHAMBAPEPURA,
RESIDING AT VADAKKUM MELACHODAM, KAVARATTI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

13. THANGAKOYA, AGED 39 YEARS,
S/O.CHERIYA KOYA EDANILAM,
RESIDING AT KOLIYALA HOUSE, KAVARATTI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

BY ADV. SRI.E.C.BINEESH

RESPONDENT/COMPLAINANT:

UNION TERRITORY OF LAKSHADWEEP,
REPRESENTED BY THE SPECIAL PROSECUTOR,
UNION TERRITORY OF LAKSHADWEEP, HIGH COURT OF KERALA,
ERNAKULAM.

R1 BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMINISTRATION

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

DSV/23/12/15

Cr1.MC.No. 7380 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1 COPY OF THE CHARGE SHEET IN CRIME NO.15 OF 2006
OF KAVARATTI POLICE STATION.

ANNEXURE-A2 COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.15 OF 2006 OF KAVARATTI POLICE STATION.

RESPONDENT'S ANNEXURES:

NIL

// True Copy //

P.A. To Judge

DSV/23/12/15

B.KEMAL PASHA, J.

=====

Crl.M.C. No.7380 of 2015

=====

Dated this the 18th day of December, 2015

ORDER

Heard the learned counsel for the petitioners and the learned Standing Counsel for the Union Territory of Lakshadweep.

2. The petitioners are the accused in Crime No.15 of 2006 of the Kavaratti Police Station, in which the Final Report has already been filed. The matter is presently pending as C.C.No.9 of 2012 before the Judicial First Class Magistrate's Court, Androth.

3. According to the petitioners, the offences alleged

against the petitioners are not legally sustainable and the facts alleged by the Police will not attract any of the offences.

4. The offences alleged against the petitioners are 143, 147, 148, 283, 285, 186, 188 and 435 read with Section 149 of the Indian Penal Code and Section 34 of the Indian Police Act. As rightly pointed out by the learned counsel for the petitioners, the offences under Sections 186 and 188 IPC are not legally sustainable in this case since it is hit by Section 195(1)(a) Cr.P.C. No such complaint by the appropriate authority has been made for inviting those offences. Matters being so, the offences under Sections 186 and 188 IPC are not legally sustainable in this case. With regard to the other offences, presently there is nothing to show that the other offences cannot be attracted in this case. Of course, it is for the prosecution to prove those offences.

In the result, this Crl.M.C. is allowed in part by declaring that the offences under Sections 186 and 188 IPC alleged

against the petitioners in the case are not legally sustainable. With regard to the other offences, the prosecution shall continue. The court below shall expedite the proceedings and dispose of the matter expeditiously.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/18/12/15

// True Copy //

P.A. To Judge