

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

Cr1.MC.No. 6205 of 2014 ()

C.M.P.4474/2014 IN C.C.NO.64/2010 OF JUDICIAL FIRST CLASS
MAGISTRATE'S COURT, PONNANI

PETITIONER/DE-FACTO COMPLAINANT:

DR.P NAZEER, AGED 42 YEARS,
S/O. SRI.MOIDUNNI, CHITTAYIL HOUSE, ANDATHODE,
THRICHUR, DISTRICT.

BY ADVS.SRI.C.KHALID
SRI.PHIJO PRADEESH PHILIP

RESPONDENTS/ACCUSED AND STATE:

1. CIRCLE INSPECTOR OF POLICE,
PONNANI POLICE STATION, PONNANI
THROUGH STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, COCHIN-682031.

2. SUDHA @ SUDHA RESHMI, AGED 29 YEARS,
D/O. GOPLANA, PATHAYAMKODATHIL HOUSE, KUTTIKKAD,
PONNANI POLICE STATION LIMIT, PONNANI-676505.

R1 BY PUBLIC PROSECUTOR SMT.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 6205 of 2014 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1- COPY OF THE CRIMINAL COMPLAINT CMP 905/08 FILED BY THE PETITIONER BEFORE JUDICIAL FIRST CLASS MAGISTRATE, PONNANI DATED 16-9-2008.

ANNEXURE 2- COPY OF THE FIR NO. 624/2008 DATED 20-09-2008.

ANNEXURE 3- COPY OF THE PETITION IN CC 64/10 FILED BY ASSISTANT PUBLIC PROSECUTOR BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE, PONNANI, DATED 30-8-2014.

ANNEXURE 4- COPY OF THE AFFIDAVIT FILED BY PETITIONER BEFORE JUDICIAL FIRST CLASS MAGISTRATE, PONNANI.

ANNEXURE 5- COPY OF THE COUNTER STATEMENT FILED BY THE COUNSEL OF RESPONDENT NO.2 BEFORE JUDICIAL FIRST CLASS MAGISTRATE, PONNANI.

ANNEXURE 6- COPY OF THE ORDER IN CMP NO. 4474/14 DATED ON 17-09-2014 PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE, PONNANI.

RESPONDENTS' ANNEXURES:

NIL

// True Copy //

P.A. To Judge

DSV/28/11/15

B. KEMAL PASHA, J.

.....
CRL.M.C. No. 6205 of 2014
.....

Dated this the 26th day of November, 2015

ORDER

The petitioner is the defacto complainant in Crime No.624/2008 of the Ponnani Police Station, registered for the offences punishable under Sections 403, 408, 418, 420 and 477A of the Indian Penal Code. The crime was registered on the basis of a private complaint filed by the petitioner before the court below as CMP No.905/08, which was referred to the police under Section 156(3) Cr.P.C. The police conducted an investigation and a final report was filed. The same was taken cognizance of by the court below as C.C.No.64/2010.

2. When the matter came up for trial, the learned

Assistant Public Prosecutor could notice that the investigation conducted by the investigating agency was not proper and records relating to the offences were not seized by the investigating officer. Therefore, according to the learned Assistant Public Prosecutor, a further investigation was required in the matter under Section 173(8) Cr.P.C. As the police have not come forward for such a further investigation in the matter, the learned Assistant Public Prosecutor filed CMP No.4474/2014 before the court below seeking a direction to the police to conduct further investigation in the matter.

3. On getting the CMP, the learned Magistrate passed Annexure 6 order, dismissing the CMP on the ground that the prosecution could call for those records. Without a proper investigation in the matter, the case cannot be proceeded with properly and legally. On going through the records, this Court is satisfied that this is a fit case in which a further investigation is required, as prayed for by the

learned Assistant Public Prosecutor. Hence, Annexure 6 order is liable to be set aside.

In the result, this Crl.M.C is allowed and Annexure 6 order stands quashed. CMP No.4474/2014 of the court below stands allowed. The investigating officer is directed to conduct a further investigation in the matter expeditiously, and file a further final report. Till then, the proceedings in the case before the court below shall stand stayed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge