

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

Crl.MC.No.6342 of 2013 (E)

CC 198/2013 of J.M.F.C., KOLENCHERRY

CRIME NO.83/2012 OF CHOTTANIKKARA POLICE STATION , ERNAKULAM

PETITIONER/ACCUSED:

C.P.PRATHAPAN, AGED 52 YEARS,
S/O.LATE C.K.PADMANABHAN, PROPRIETOR, M/S.CKP QUARRY
CHULLUTHARAYIL HOUSE, MAMALA P.O.
ERNAKULAM PIN - 682 305.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS/COMPLAINANT:

STATE OF KERALA
REPRESENTING THE S.I OF POLICE (CRIME 83/12) CHOTTANIKKARA
POLICE STATION REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

* ADDL.R2 IMPEADED

ADDL.R2: KRISHNAKUMAR V.V., AGED 41 YEARS,
S/O.VELAYUDHAN, VADANETH HOUSE,
KAKKAD KARA, MAMALA POST,
THIRUVANKULAM, ERNAKULAM - 682305

* ADDL.R2 IS IMPEADED AS PER ORDER DTD.31.03.2014 IN
CRL.M.A.NO.2893/2014 IN CRL.M.C.NO.6342/2013.

ADDL.R2 BY ADV. SRI.K.V.SABU
R1 BY PUBLIC PROSECUTOR SRI.GITHESH.R

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 27-07-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No.6342 of 2013 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

ANNEXURE-I: A CERTIFIED COPY OF THE FINAL REPORT PENDING AS
C.C.198/2013 IN CRIME NO.83/12 OF CHOTTANIKKARA POLICE STATION,
ERNAKULAM DT.PENDING ON THE FILE OF JFCM COURT, KOLENCHERY.

RESPONDENT(S)' EXHIBITS:

NIL

// TRUE COPY //

P.S TO JUDGE.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 6342 of 2013

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Dated this the 27th day of July, 2015

O R D E R

The petitioner herein is the accused in Calendar Case, C.C.No. 198/2013 pending on the file of the Judicial First Class Magistrate's Court, Kolenchery, arising out of the impugned Anx.I final report/charge sheet filed in Crime No.83/2012 of Chottanikkara Police Station, Ernakulam district, registered for offences under Secs. 468, 420 & 471 of the I.P.C. The case arose out of the private complaint dated 24.2.2012 (initiated at the behest of the additional respondent No.2) forwarded to the Station House Officer, Chottanikkara Police Station, for investigation. The Police after investigation submitted Anx.I final report/charge sheet, which has led to the institution of Calendar Case, C.C.No.198/2013 on the file of the Judicial First Class Magistrate's Court, Kolenchery. The gist of the prosecution case is that the accused had forged a certificate of the Kerala State Pollution Control Board having validity upto 31.12.2011 and produced it before the Thiruvaniyoor Grama

panchayat for obtaining licence to conduct his quarrying activities. That the accused obtained the licence using the said false certificate and cheated the Thiruvaniyoor Grama Panchayat and obtained huge profit. The prayer in this Criminal Miscellaneous Case filed under Sec.482 of the Code of Criminal Procedure seeking invocation of this Court's inherent powers conferred on this Court, is to quash the impugned final final report/charge sheet, which has led to the institution of Calendar Case, C.C.No.198/2012 on the file of the Judicial First Class Magistrate's Court, Kolenchery and all further proceedings arising therefrom.

2. The main grounds raised by the petitioner in support of his prayer for quashment of the impugned criminal proceedings are as follows:

- "1. It is respectfully submitted that Annexure-I final report is not maintainable either in law or on facts. The respondent has not seen the alleged forged document. Without producing the alleged forged documents before the trial court the prosecution for an offence U/ss.468 & 471 of I.P.C. will not lie against the petitioner.
2. It is respectfully submitted that the panchayath has never made any complaint against this petitioner alleging falsification or fabrication of any document.
3. There is no mention in Annexure I charge that the forged document is in existence with any authority. It is respectfully submitted that the respondent has not produced any document through the Secretary of grama panchayat to prove any falsification.

4. The respondent has produced the statement of the environmental engineer of Pollution Control Board but he has not produced any document to substantiate his claim.
5. The respondent has not produced any document to prove the conducting of a stone quarry by the accused at any point of time.
6. At any rate the pendency of Annexure-I is only an abuse of process of court."

3. Heard the learned counsel appearing for the petitioner, the learned Public Prosecutor appearing for the 1st respondent State of Kerala and the learned counsel appearing for the additional 2nd respondent.

4. Having regard to the totality of the facts and circumstances of this case and taking into consideration the nature of the contentions sought to be raised in this case, this Court is of the considered opinion that it is for the petitioner to urge the contentions available to him including the aforestated contentions, by seeking appropriate remedy of discharge by approaching the court below concerned. Needless to say, this will be subject to the condition that the stage for seeking the prayer of discharge has not yet been crossed in the instant case. Accordingly, it is ordered in the interest of justice that in case the petitioner submits necessary application seeking the relief of discharge before the court below

concerned without any further delay, the court below will consider the said plea on merits and advert to all such contentions and take a decision thereon, after granting reasonable opportunity of being heard, provided the stage for consideration of the plea of discharge has not yet been crossed. In the eventuality of filing such an application, the court below will ensure that considered decision is taken thereon after adverting to all the contentions of the petitioner and necessary orders may be passed thereon within two months from the date of receipt of such application, subject to the aforestated condition.

With these observations and directions, the Crl.M.C. stands finally disposed of.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge