

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Crl.MC.No. 6316 of 2014 ()

CRIME NO. 132/2010 OF VYTHIRI POLICE STATION , WAYANAD

PETITIONER(S)/PETITIONER/COMPLAINANTQ:

**ERAYI ARAKKALATH NEETHA AGED 58 YEARS
D/O. JANAKI, PADMA NIVAS, URUVACHAL P.O.
PAZHASSI AMSOM, KARETTA DESOM, MATTANNUR
KANNUR DISTRICT.**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S)/RESPONDENT/ACCUSED/STATE:

- 1. E.A.VIJAYARAGHAVAN, AGED 65 YEARS
S/O. JANAKI, PRIYAM, CHUNDAVAYAL
CHUNDEL P.O., WYNAD-673123.**
- 2. E.A.GIRIJA, AGED 67 YEARS
D/O. JANAKI, NIHARIGA HOUSE, POZHUTHANA P.O.
VYTHIRI TALUK, WYNAD DISTRICT-673576.**
- 3. E.A.SURIJA, AGED 58 YEARS
D/O. JANAKI, KALPA RESIDENCE
MANGATTIDAM PANCHAYATH ROAD, NIRMALAGIRI P.O.
KUTHUPARAMBA, KANNUR DISTRICT-670701.**
- 4. E.A.PAVITHRAN, AGED 68 YEARS
S/O. JANAKI, MAHESWARI HOUSE, POZHUTHANA P.O.
VYTHIRI, WAYANAD DISTRICT-673576.**
- 5. E.A.BEENA, AGED 52 YEARS
D/O. JANAKI, SHIVARANJINI
NEAR BOAT MANUFACTURING CENTRE, HUSSAIN MOTTA, KURUCHI
NEW MAHI P.O., THALASSERY-670101.**
- 6. E.A.GIREESH KUMAR, AGED 52 YEARS
S/O. JANAKI, PUSHPAGIRI HOUSE, POZHUTHANA P.O.
VYTHIRI, WYNAD-673575.**
- 7. P.NANAVENI
EX-SECRETARY OF POZHUTHANA GRAMA PANCHAYATH
MANJUSHRI, VALLEY VIEW EXTENSION, MARY HILL
CONCHADI, MANGALORE, KARNATAKA.**

- 8. SUB INSPECTOR OF POLICE
VYTHIRI POLICE STATION, WYNAD-673506.**
- 9. DEPUTY SUPERINTENDENT OF POLICE
KALPETTA, WYNAD-673121.**
- 10. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**
- 11. THE DETECTING INSPECTOR, CBCID, WYNAD.**

**R1-R4 & 6 BY ADV. SRI.BABU S. NAIR
R1-R4 & 6 BY ADV. SRI.K.RAKESH
R7 BY ADV. SRI.KODOTH SREEDHARAN
R5 BY ADV. SRI.NAVEEN.T
R8-11 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE 1- COPY OF THE FIRST INFORMATION REPORT IN CR. NO. 132/2010.

ANNEXURE II- COPY OF THE FINAL REPORT IN CR.NO. 132/10 DATED 19-5-2010.

ANNEXURE III- COPY OF THE ORDER IN CMP 2050/10 DATED 15-9-12 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA, WYNAD.

ANNEXURE IV- COPY OF THE PETITION FILED BY THE PETITIONER IN CMP 1025/13 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA.

ANNEXURE V- COPY OF THE DIARY EXTRACT IN ANNEXURE IV AS CMP. 1025/13.

ANNEXURE VI- COPY OF THE JUDGMENT IN CRL.MC. 5650/13 OF THIS HON'BLE COURT, DT. 9-12-13.

ANNEXURE VII- COPY OF THE SPECIMEN SIGNATURE OF 1ST ACCUSED.

ANNEXURE VIII- COPY OF THE ENDORSEMENT OF SHERISTADAR DATED 16-1-2014.

ANNEXURE IX- COPY OF THE SPECIMEN SIGNATURE OF 5TH ACCUSED.

ANNEXURE X- COPY OF THE ENDORSEMENT OF SHERISTADAR DATED 16-1-2014.

ANNEXURE XI- COPY OF THE LETTER DATED 26-3-14 OF ASSISTANT DIRECTOR TO THE CHIEF JUDICIAL MAGISTRATE.

ANNEXURE XII- COPY OF THE CMP NO. 5006/14 OF CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 6316 of 2014

Dated this the 5th day of March, 2015.

O R D E R

The petitioner herein is the de facto complainant in Crime No.132 of 2010 of Vythiri Police Station in Wayanad District. The Crime was once referred by the police on the ground that the dispute is essentially of a civil nature, but the learned Chief Judicial Magistrate Court, Kalpetta ordered further investigation in the crime. Finding that the material document requires to be examined scientifically for comparison of signatures and thumb impressions, the Investigating Officer made a request before the learned Magistrate to direct the accused to appear in court and provide their specimen signatures and thumb impressions. Some of them honoured the court order, appeared accordingly and provided their signatures and thumb impressions, but some still remain to provide. The petitioner's grievance is that if there is no direction from this court to the court below, the matter will not be taken seriously, and so she seeks an order directing the court below to compel the respondents (accused) to appear in court and provide their signatures and thumb

impressions for comparison as part of effective investigation. Now it is submitted from the side of the respondents that only the signatures and thump impressions of the accused Nos. 1 and 5 are required for comparison. This is conceded by the other side also. Of these two persons the fifth accused has already provided her signature and thumb impression. But the first accused (the first respondent herein) has not so far complied with the directions of the court. Anyway, the learned counsel for the first accused submits that the first accused is ready to appear in court and provide the required specimen impression and signature. In such a situation a direction as sought by the petitioner is not required. If the first accused again fails to appear in court, appropriate coercive measures can be taken by the learned Magistrate to enforce the order. In the present circumstances only the first accused need appear again and provide the required thumb impressions and signatures. Specific direction is felt not necessary in this proceeding in the above circumstances, when the first accused is ready to appear in court and provide the required signatures and impressions.

In the result, this Crl.M.C is closed with the above observations, however directing the learned Chief Judicial

Magistrate to take necessary steps to enforce the order, in case the first accused did not appear and provide the required signatures and thumb impressions as offered before this court.

P.UBAID,
JUDGE

sab