

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.MC.No. 7609 of 2015

**CC 1243/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PERUMBAVOOR
CRIME NO. 3397/2015 OF PERUMBAVOOR POLICE STATION, ERNAKULAM**
.....

PETITIONER(S)/ACCUSED:

**SASIKUMAR, AGED 65 YEARS,
S/O PARAMESWARAN NAIR, NELLICKAL HOSUE,
VALYANCHIRANGARA P.O., PERUMBAVOOR.**

**BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL**

RESPONDENT(S)/COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. CHANDRIKA, AGED 55 YEARS,
W/O KRISHNAN NAIR, THOTTAPURATHU HOUSE, THRIKALATHOOR,
MOOVATTUPUZHA, PIN:683 557.**

R1 BY PUBLIC PROSECUTOR SMT.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I: COPY OF THE PLAINT-O.S.191/2015 ON THE FILE OF MUNSIFF'S COURT, PERUMBAVOR.

ANNEXURE II: COPY OF THE WRITTEN STATEMENT IN OS 191/2015 ON THE FILE OF MUNSIFFS COURT, PERUMBAVOOR.

ANNEXURE III: COPY OF THE ORDER DATED 29.5.2015 IN IA 977/2015 IN O.S.191/2015 OF THE MUNSIFFS COURT, PERUMBAVOOR.

ANNEXURE IV: COPY OF THE DEPOSITION DATED 27.8.2015 RECORDED BY PERUMBAVOOR POLICE STATION.

ANNEXURE V: FIRST INFORMATION REPORT IN CRIME NO.3397/2015 OF PERUMBAVOOR POLICE STATION.

ANNEXURE VI: COPY OF THE ORDER DATED 13.10.2015 IN CRL.M.C.6365/2015 OF HIGH COURT OF KERALA.

ANNEXURE VII: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.3397/2015 OF PERUMBAVOOR POLICE STATION.

ANNEXURE VIII: COPY OF STATEMENT GIVEN BY CHANDRIKA.

ANNEXURE IX: COPY OF STATEMENT GIVEN BY SAJI.

ANNEXURE X: COPY OF STATEMENT GIVEN BY RAJESH.

ANNEXURE XI: COPY OF STATEMENT GIVEN BY AMBILY.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

B. KEMAL PASHA, J.

.....
Crl.M.C. No. 7609 of 2015
.....

Dated this the 15th day of December, 2015

ORDER

The right of a pathway is in question in O.S.No.191/2015 of the Munsiff's Court, Perumbavoor. An order of temporary injunction is still there, in the said civil suit. It is alleged that the petitioners have violated the said order of temporary injunction and has obstructed the entry of the defacto complainant and others into the said pathway. It is also alleged that a vehicle carrying tiles to be transported to the house of the daughter of the defacto complainant through the said pathway was also obstructed and sent back, by causing financial loss to the daughter of the defacto complainant. In a case like this, it is not at all feasible for the petitioners to take the aid of civil court under

Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 for each and every such violation. The police cannot be found fault with in registering the case against the petitioners. An offence under Section 188 IPC is not legally sustainable in this case as there is no complaint in writing by the said court. At the same time, there are materials to bring out an offences under Sections 427 and 506(i) IPC, if proved. It is declared that the offence under Section 188 IPC incorporated in Annexure 7 Final Report on which C.C.No.1243/2015 is pending, is not legally sustainable. The court below can proceed with the other offences, quite untrammelled by any of the observations made by this Court in this order.

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

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge