

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

Cr1.MC.No. 6796 of 2014

IN CR.M.P NO.522/2011 IN C.C. NO.150/2006 ON THE FILE OF THE
CHIEF JUDICIAL FIRST CLASS MAGISTRATE COURT, PALAKKAD

PETITIONER:

M.C.KURIACHAN, AGED 46 YEARS,
S/O.CHERIAN, "MOUNT VIEW", MANAPPULLY KAVU,
PALAKKAD.

BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.SEBIN THOMAS
SRI.VIVEK V. KANNANKERI
SRI.G.RAJESH (DIWAN)

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. GLADIS V.R., AGED 41 YEARS,
D/O.MARY STELLA RODRIGUES, STELL DALE,
HILL VIEW NAGAR, DHONI POST, PALAKKAD DISTRICT.
3. MARY STELLA RODRIGUES, AGED 69 YEARS,
W/O.RODRIGUES, STELLA DALE, HILL VIEW NAGAR,
DHONI POST, PALAKKAD DISTRICT.

R2&3 BY ADV. SRI.NIREESH MATHEW
R1 BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
09-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 6796 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1. COPY OF THE COMPLAINT FILED BEFORE THE CJMC,
PALAKKAD AS CC NO.150/2006.

ANNEXURE-A2. COPY OF THE ORDER DATED 24/2/2011 PASSED BY THE
JFMC, PALAKKAD IN CRL.M.PNO.522/2011 IN CC NO.150/2006.

ANNEXURE-A3.CERTIFIED COPY OF THE ORDER DATED 12/8/2014 PASSED
BY THE SESSIONS COURT, PALAKKAD IN CRL.RP NO.20/2011.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6796 of 2014

Dated this the 9th day of January, 2015

O R D E R

The petitioner herein is the complainant in C.C. No.150/2006 before the Chief Judicial Magistrate Court, Palakkad. The offence alleged by him in the complaint is one punishable under Section 379 of the Indian Penal Code. The second respondent herein is the petitioner's divorced wife and the third respondent herein is the mother of the second respondent. The allegation against the respondents in the complaint is that they committed theft of a cooking range belonging to the petitioner. It appears that when dispute in matrimony was going on, the wife took away the cooking range claiming that it belongs to her. Anyway, a complaint of theft came before the court. Pending the proceeding the complainant made an application as C.M.P No.522/2011 to summon the Sales Tax Superintendent to prove his ownership over the alleged cooking range. Finding that no purpose will be served by examining such a witness, the learned Magistrate dismissed the application on 24.2.2011. This order is under challenge in this

proceeding.

2. On hearing both sides, and on a perusal of the materials I find that the application was rightly dismissed by the learned Magistrate. It is not known how the petitioner's ownership over the alleged cooking range could be proved by a Sales Tax Superintendent. He may, at the most, have the accounts submitted by the dealer, in his office. Such accounts will not contain any bill or voucher, and such accounts will not prove the petitioner's case that the cooking range belongs to him. The petitioner will have to prove his ownership by other materials, if possible.

In the result, this Criminal Miscellaneous Case is dismissed.

**P.UBAID
JUDGE**

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