

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

Crl.Rev.Pet.No. 802 of 2010

-----

AGAINST THE ORDER IN C.M.P.NO.590/10 IN ST 605/2004 of  
J.M.F.C.-II, PEERUMEDU DATED 20-02-2010

REVISION PETITIONER(S)/ACCUSED:

-----

K.BIJUMON, AGED 39 YEARS, S/O.KUNJAPPAN,  
NOW WORKING AS CIRCLE INSPECTOR OF POLICE,  
PIRAVOM, PUTHENVEETIL HOUSE,  
CHERUMUTTAPPUZHA KARA,  
VAZHAKKALA VILLAGE, ERNAKULAM DISTRICT.

BY ADVS.SRI.G.HARIHARAN  
SRI.PRAVEEN.H.

RESPONDENT(S)/STATE/DE-FACTO COMPLAINANT:

-----

1. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM

2. VIJAYAN,  
S/O.SUBRAMANIAN, KONIMARA, ESTATE LAYAM,  
PERIYAR VILLAGE, PEERMADE TALUK, IDUKKI DISTRICT.

R1 BY PUBLIC PROSECUTOR SMT. MADHUBEN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY  
HEARD ON 09-10-2015, THE COURT ON THE SAME DAY PASSED  
THE FOLLOWING:

**K. HARILAL, J.**

-----  
**Crl.R.P. No.802 of 2010**  
-----

**Dated this the 9<sup>th</sup> day of October, 2015**

**ORDER**

The above revision petition is filed challenging the order dated 20/2/2010 in C.M.P.No.590/10 in S.T. No.605/04 on the files of the Judicial First Class Magistrate's Court-II, Peermade. The petitioner is a public servant, who is facing trial for the offences punishable under Secs.323, 324, 294(b) and 506 of the Indian Penal Code.

2. Earlier, the revision petitioner has filed Crl.M.C. No.4481/2005 before this Court challenging the prosecution against him for want of sanction under Sec.197 of the Cr.P.C. and this Court disposed of the above M.C. directing the petitioner to approach the

Magistrate's Court for the said relief. Thereafter, the petitioner filed a petition before the Magistrate's Court on the said ground, and the learned Magistrate dismissed the petition on a finding that sanction under Sec.197 of the Cr.P.C. is not necessary, in the instant case. Feeling aggrieved, the petitioner filed Crl.R.P.No.2288/09 before this Court challenging the said order and latter he withdrew the Crl.R.P. and filed Crl.M.C.No.2378/09 before this Court. This Court, after hearing the petitioner, passed an order directing the petitioner to challenge the prosecution for want of sanction under Sec.197 of the Cr.P.C. at the time of trial by raising all the contentions raised in the said Crl.M.C.. and dismissed the Crl. M.C.

3. In the above order, in fact, the petitioner was allowed to raise the question of sanction in the final hearing after trial, but it seen that again the petitioner filed the above C.M.P.No.590/2010 with the same prayer before the final hearing and the learned Magistrate, without considering the maintainability of

the petition, in view of the direction in the order passed on 29/10/2009 passed in Crl.M.C. No.2378/09 considered the matter on merits and dismissed. In view of the earlier order passed in Crl.M.C.No.2378/09, the learned Magistrate should have considered the maintainability of the petition in its correct perspective and dismissed the petition on maintainability itself. In short, the impugned order was passed on a petition which was not maintainable in view of the earlier order passed by this Court in Crl.M.C.No.2378/09.

Therefore, this Crl.R.P. will stand dismissed. Needless to say, the petitioner is at liberty to raise all these contentions in the final hearing. The learned Magistrate is further directed to dispose of the case after trial within three months from today.

Sd/-

**(K. HARILAL, JUDGE)**

**Nan/**

**//true copy/**

**P.S. to Judge**