

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

Crl.Rev.Pet.No. 963 of 2015

**(AGAINST THE ORDER FRAMING CHARGE IN S.C.NO. 719/2012 OF ADDITIONAL
ASSISTANT SESSIONS COURT, KOLLAM)**

REVISION PETITIONERS/ACCUSED NOS.1 AND 2 :-

- 1. PREMSHAD, AGED 30 YEARS,
S/O NAZEER, ALFALAH, KUZHIYILMUKKU,
MARKET ROAD, ATTINGAL.**
- 2. SHAHEER, AGED 30 YEARS,
ABDUL WAHAD, SS COTTAGE, ALAMCODE,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.A.RAJASIMHAN
SRI.K.NIRMALAN**

RESPONDENTS/COMPLAINANT & STATE :-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**
- 2. VIBINA WAHID, AGED 25 YEARS,
D/O RAHIYA BEEVI, SUBAH, VELAMKONAM,
AVANAVANCHERY, ATTINGAL, THIRUVANANTHAPURAM.**

R1 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 02-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.Rev.Pet.No. 963 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 : TRUE COPY OF THE CHARGE SHEET IN S.C.NO.719/2012 OF THE
ADDITIONAL ASSISTANT SESSIONS COURT, KOLLAM.**

ANNEXURE A2 : TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 22.07.2015.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.Revision Petition No.963 of 2015

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Dated this the 2nd day of September, 2015

ORDER

The two accused in S.C.No.719 of 2013 of the Additional Assistant Sessions Court, Kollam challenge the charge framed against them by the Court on 09.07.2015. While seeking orders quashing the charge, the petitioners also seek discharge. On a perusal of the Court charge framed by the trial court I find that it is liable to be set aside, and the trial court will have to be directed to frame a proper charge. The question of discharge cannot be now considered. When the matter again comes up before the trial court, the petitioners can urge their contentions, and plea for discharge. I find that the charge in this case was mechanically framed by the Court below. Sections 211 to 214 Cr.P.C. tell us how a charge should be framed, and what all materials should be there in a charge framed by the Court. The charge framed by the trial court in this case deserves commends, but I restrain myself. There is

reason to believe that the impugned charge was framed by the Court below, without application of mind, and without even perusing the necessary materials like the complaint and the final report. The petitioners are given liberty to raise their contentions before the trial court, if they feel, or if they are confident, that they can obtain discharge.

In the result, the Criminal Revision Petition is disposed of as follows;

a) The charge framed by the Court below on 09.07.2015 is set aside.

b) The trial court is directed to frame a proper charge according to law, having in mind the provisions contained in Sections 211 to 214 Cr.P.C., if it is found that they are not entitled for discharge.

c) If the petitioners plea for discharge, or if application for discharge is filed, it shall be judiciously considered by the trial court, and judicious decision shall be taken on a consideration of all the materials furnished by the prosecution.

d) If a proper charge is framed, and if the petitioners are aggrieved by the charge, they can approach this Court for appropriate relief.

e) All the materials shall be considered, and examined by the trial court in taking decision on the plea for discharge, if made by the accused.

The trial court will take appropriate decision on the question of charge within three months. If any of the petitioners seek exemption from personal appearance, the said request also shall be considered by the trial court. The Registry shall forward a copy of the impugned charge to the Kerala Judicial Academy for necessary action.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE