

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

OP(Crl.).No. 78 of 2015 (Q)

AGAINST SC 419/2011 of ADDL. DISTRICT. & SESSIONS COURT - V, KOZHIKODE

PETITIONER(S):

K.VIJAYAN NAIR AGED 56 YEARS
S/O.K.G.KESAVA PILLAI, SREELAKOM, POOVATTUPARAMBA P.O.
PERUVAYAL AMSOM MUNDAKKAL DESOM, KOZHIKODE DISTRICT

BY ADVS.SRI.SANTHARAM.P
SMT.REKHA ARAVIND

RESPONDENT(S):

1. STATION HOUSE OFFICER, KUNNAMANGALAM
KOZHIKODE DISTRICT

2. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM KOCHI- 31

3. N.PRAMOD
S/O.KUNJIRAMAN, MADATHIL VEEDU, PERUVAYAL AMSOM
MUNDAKKAL DESOM, POOVATTUPARAMBU P.O.,
KOZHIKODE DIST - 673 001,

BY R1 & R2 GOVERNMENT PLEADER SMT.P.MAYA

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Crl.).No. 78 of 2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE WOUND CERTIFICATE DATED 28.09.2010
ISSUED FROM MEDICAL COLLEGE HOSPITAL, KOZHIKODE.

EXT.P2: TRUE COPY OF THE FIR DATED 9.8.2010 IN CRIME NO.376 OF 2010

EXT.P3: TRUE COPY OF THE RELEVANT PAGE OF THE CHARGE SHEET DATED
9.8.2010 IN CRIME NO.376 OF 2010

EXT.P4: TRUE COPY OF THE MEMORANDUM OF EVIDENCE IN THE CRIME
NO.376 OF 2010

EXT.P5: TRUE COPY OF THE C.M.P. NO638 OF 2015 IN SC NO.419 OF 2011

EXT.P6: TRUE COPY OF THE COMPLAINT DATED 20.2.2015 TO THE
DIRECTOR GENERAL OF PROSECUTION

RESPONDENTS EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**O.P (Crl) No.78 of 2015**  
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Dated this the 19th March 2015

J U D G M E N T

The petitioner herein is the de facto complainant in S.C No.419 of 2011 before the Additional Sessions Court-V, Kozhikode. Trial is going on in th said case. At the fag end, the petitioner brought this petition complaining that the learned Public Prosecutor-in-charge of the case is biased, and that the evidence given by the witnesses should be reviewed. Now there is a report from the trial court that only two witnesses remain to be examined in the case. The learned trial Judge has examined eight witnesses including the very material witnesses, and has also marked Exts.P1 to P5 documents. At this stage, the petitioner's request to change the Prosecutor cannot be entertained. The first prayer made by the petitioner in this proceeding is really strange and funny, that the trial court should review the evidence given by the witnesses. It is not known how evidence can be reviewed. The second prayer is to direct the authorities to change the Prosecutor. Such a direction

cannot be made by this Court under Article 227 of the Constitution of India. Appointment of Public Prosecutor is not the concern of this Court. The learned trial Judge has reported that on the request of both the parties, a settlement was attempted during the proceedings, but the parties could not come to terms. It was in fact a settlement involving the learned Public Prosecutor and also the defence counsel. I do not know why the complainant blames the Prosecutor alone. The petition does not show how the prosecutor is biased. As the Public Prosecutor-in-charge of the case, proper and effective prosecution must be his concern. If he does it, he cannot be blamed. I find that the petitioner does not deserve any relief in this proceeding.

In the result, this original petition is dismissed *in limine* without being admitted to files.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge