

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

OP(Crl.).No. 80 of 2015 (Q)

AGAINST SC 325/2014 of II ADDL.DISTRICT COURT,ERNAKULAM

PETITIONER(S):

HARI, AGED 43 YEARS
S/O.BALAKRISHANAN MENON, VADAKKEKUNNATHU VEEDU
VADAKKUMPURAM POST, CHENNAMANGALAM VILLAGE, N.PARAVUR
ERNAKULAM DISTRICT-683 521.

BY ADVS.SRI.K.J.MOHAMMED ANZAR
SRI.A.D.SURESH BABU

RESPONDENT(S):

1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM PIN-682 031.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
CRIME BRANCH, ERNAKULAM, (THE INVESTIGATING OFFICER
CRIME:346/11-N
PARAVUR POLICE STATION & CBCID-HHW-II-CR-III/CR/HHW-II/11)

BY GOVERNMENT PLEADER SRI.C.RASHEED

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : TRUE COPY OF THE FINAL REPORT IN SC NO.325/2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE ERNAKULAM FILED IN CRIME NO.346/2011 OF N.PARAVUR POLICE STATION

EXT P2 : TRUE COPY OF THE FIR IN CRIME NO.346/2011 OF N.PARAVUR POLICE STATION.

EXT P3 : TRUE COPY OF THE STATEMENT OF THE DEFACTO COMPLAINANT, NASEEHA IN CRIME NO.346/2011 DT. 07.03.2011 GIVEN TO THE SI OF POLICE, N.PARAVUR.

EXT P4: TRUE COPY OF THE STATEMENT DT. 09.03.2011 IN CRIME NO.346/2011 RECORDED BY CIRCLE INSPECTOR OF POLICE, N.PARAVUR.

EXT P5 : TRUE COPY OF THE STATEMENT DT. 15.03.2011 IN CRIME NO.346/2011 GIVEN TO THE CI OF POLICE, N.PARAVUR.

EXT P6 : TRUE COPY OF THE DEPOSITION OF PW1 IN SC NO.325/2014 DT. 10.12.2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM.

EXT P6(A) : TRUE COPY OF A READABLE TYPED COPYOF THE DEPOSITION OF PW1 IN SC NO.325/2014 DT. 10.12.2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM

EXT P7 : TRUE COPY OF THE DEPOSITION OF PW7 IN SC NO.325/2014 DT. 18.12.2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM.

EXT P7(A) : TRUE COPY OF A READABLE TYPED COPYOF THE DEPOSITION OF PW7 IN SC NO.325/2014 DT. 18.12.2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM

EXT P8 : TRUE COPY OF THE 161 STATEMENT OF JUMAILA, CW10 IN ANNEXURE A1 FINAL REPORT AND PW7 SC NO.325/2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM.

EXT P9 : TRUE COPY OF THE 164 STATEMENT OF CW10 IN ANNEXURE A1 FINAL REPORT AND PW7 SC NO.325/2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM.

EXT P10 : TRUE COPY OF THE APPLICATION DT. 16.01.2015 FILED BY THE DYSP, CBCID, HH-N, ERNAKULAM FILED IN SC NO.325/2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS JUDGE, ERNAKULAM

EXT P11 : TRUE COPYOF THE LETTER DATED NIL ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT P12 : TRUE COPIES OF THE RELEVANT PAGES OF THE PASSPORT OF THE PETITIONER.

EXT P13 : TRUE COPY OF THE SUPPLEMENTARY FINAL REPORT DT. 27.01.2015 FILED BY THE 2ND RESPONDENT IN SC NO.325/2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS COURT, ERNAKULAM.

EXT P14 : TRUE COPY OF THE REPORT DT. 27.1.2015 FILED BY THE 2ND RESPONDENT IN SC NO.325/2014 OF THE IIND ADDITIONAL DISTRICT & SESSIONS COURT, ERNAKULAM.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**O.P (Crl) No.80 of 2015**  
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Dated this the 24th March, 2015

J U D G M E N T

The learned counsel for the petitioner seeks permission to withdraw the proceeding with liberty to raise his factual and legal objections before the trial court as regards the supplemental report of further investigation made under Section 173 (8) of Cr.P.C. When there are two reports; one filed under section 173 (2) Cr.P.C, and the other submitted under Section 173 (8) Cr.P.C, and if one report is inconsistent with the other, the legal position settled is that the trial court will have to examine both the reports and take appropriate decision on merits. However, if there is no inconsistency between the two, the report filed under Section 173 (8) Cr.P.C will have to be accepted. Anyway, let appropriate decision on the challenge be taken by the trial court. The submission made by the learned counsel is accepted and this original petition is dismissed as withdrawn, without prejudice to the right of the petitioner to raise all his factual and legal objections, as regards the

supplemental final report under Section 173 (8) of Cr.P.C
before the trial court.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge