

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

OP(Crl.).No. 294 of 2015 (Q)

**CC 965/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KODUNGALLUR.
CRIME NO.658/2011 OF MATHILAKAM POLICE STATION, THRISSUR DISTRICT.**
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PETITIONER(S)/ACCUSED 1 TO 6:

1. NASEER @ NASI, AGED 33 YEARS,
S/O. CHEVUNJI, POOVATHUMKADAVIL HOUSE,
NEAR MATHILAKAM POLICE QUARTERS,
PAPPINIVATTOM, THRISSUR DISTRICT, PIN - 680 685.
2. SHIYAS, AGED 35 YEARS, S/O.MAJEED,
KUZHAKANDATHIL HOUSE, WEST OF MATHILAKAM
CENTRE, THRISSUR DISTRICT, PIN - 680 685.
3. SHAHIR, AGED 27 YEARS, S/O. KUNJUMOHAMMED,
PUTHANVEETIL, PALLIVALAVU DESOM,
PAPPINIVATTOM, THRISSUR DISTRICT, PIN - 680 685.
4. ASIF, AGED 24 YEARS, S/O. SAHABUDHEEN,
PAMPINEZHATH HOUSE, PAPPINIVATTOM,
MATHILAKAM WEST, THRISSUR DISTRICT, PIN - 680 685.
5. BARACK, AGED 24 YEARS, S/O. IQBAL,
KUNNATHUPADIKKAL HOUSE, ONACHAMMAVU DESOM,
MATHILAKAM WEST, THRISSUR DISTRICT, PIN - 680 685.
6. SHAFAK, AGED 23 YEARS, S/O. IQBAL,
KUNNATHUPADIKKAL HOUSE, ONACHAMMAVU DESOM,
MATHILAKAM WEST, THRISSUR DISTRICT, PIN - 680 685.

**BY ADVS.SRI.K.J.MOHAMMED ANZAR
SRI.DILEEP D BHAT**

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.

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2. SUB INSPECTOR OF POLICE,
MATHILAKAM POLICE STATION,
THRISSUR DISTRICT, PIN - 680 685.
3. HARSHAD, AGED 26 YEARS,
S/O. ABDUL KAREEM, PABINEZHATH HOUSE,
NEAR VANPARAMBIL TEMPLE, VAZHIYAMBALAM,
KAIPAMANGALAM, THRISSUR DISTRICT, PIN - 680 685.

R1 & R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 08-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE COPY OF THE FIR IN CRIME NO 658/2011 OF MATHILAKAM POLICE STATION.
- EXHIBIT P2: TRUE COPY OF THE FINAL REPORT IN C.C NO 965/2011 OF JFCM COURT, KODUNGALLUR.
- EXHIBIT P3: TRUE COPY OF THE ADDITIONAL STATEMENT OF THE DEFACTO COMPLAINANT IN CRIME NO 685/2011 RECORDED BY THE POLICE.
- EXHIBIT P4: TRUE COPY OF THE STATEMENT OF CW2 IN EXT P2 FINAL REPORT RECORDED BY THE POLICE.
- EXHIBIT P5 : TRUE COPY OF THE STATEMENT OF CW3 IN EXT P2 FINAL REPORT RECORDED BY THE POLICE.
- EXHIBIT P6 : TRUE COPY OF THE SCENE MAHAZAR IN CRIME NO 685/2011 OF MATHILAKAM POLICE STATION.
- EXHIBIT P7 : TRUE COPY OF THE PROCEEDINGS IN C.C NO 965/2011 OF JFCM COURT, KODUNGALLUR TAKEN OUT FROM THE CASE DOCKET OF THE PETITIONERS COUNSEL IN THE LOWER COURT.
- EXHIBIT P7 : TRUE COPY OF THE CLARIFICATION LETTER DATED 12-08-2013 ISSUED THE REGIONAL PASSPORT OFFICER, COCHIN TO THE 4TH PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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O.P.(Crl.).No.294 of 2015

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Dated this the 8th day of October, 2015

J U D G M E N T

It seems that C.C.No.965 of 2011 of the court below is unnecessarily being prolonged. The petitioners, who are the accused, have a genuine grievance that the case against them is being prolonged. It was in that context, a report was called for from the court below. The court below has reported that the case stands posted to 01.01.2016 and non-bailable warrants were issued to CW1 to CW4. According to the learned counsel for the petitioners, CW1 to CW4 are not interested in the matter, and further they are involved in a series of criminal cases. CW1 alone is involved in more than ten criminal cases of serious nature and there is no possibility of them to appear before the court below in the matter as witnesses. In such case, the court below is not powerless to dispense with the examination of those witnesses, who are

not available and to dispose of the case after examining the other witnesses. By adopting such a course, the court below shall dispose of the case as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/9/10/15

// True Copy //

P.A. To Judge