

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

Tr.P(Crl.).No. 112 of 2014 ()

IN CC 5023/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT - I, CHALAKUDY

PETITIONER(S)/IST ACCUSED:

**BINDHU GHAZI
W/O.GHAZI ABDEL RAHMAN OMER FAYEG, JANGITH COMPLEX
YAMUNA TOWER, A-WING, ROOM NO. 1301
MIRA ROAD(E), DISTRICT THANE, EAST MUMBAI 401 107**

BY ADV. SRI.JOHN BRITTO

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY SUB INSPECTOR OF POLICE
THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**
- 2. NIXON
S/O.DEVASSIKUTTY, PULIKALANVEEDU, KUTTIKAD DESOM
PARIYARAM VILLAGE, MUKUNDAPURAM TALUK, THRISSUR**

**R2 BY ADV. SRI.C.A.RAJEEV
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 05-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS ANNEXURES:

1. TRUE COPY OF THE COMPLAINT DATED 3.10.13 IN M.P NO.10926/13 FILED BEFORE THE JFCM CHALAKUDY AND THE PROCEEDINGS.
2. TRUE COPY OF THE ORDER DATED 26.11.13 OF THE HON'BLE HIGH COURT OF KERALA IN W.P(C)29026/13
3. TRUE COPY OF COMPLAINT DATED 13.12.13 FILED BEFORE THE REGISTRAR (SUBORDINATE JUDICIARY) HIGH COURT OF KERALA
4. TRUE COPY OF THE ORDER DATED 28.5.14 OF THE HON'BLE SUPREME COURT IN W.P(Crl.) 52/13
5. TRUE COPY OF INTERIM REPORT DATED 1.7.14 FILED BY CRIME BRANCH, MUMBAI BEFORE THE HON'BLE SUPREME COURT
6. TRUE COPY OF PROGRESS REPORT DATED 5.9.14 FILED BY THE CRIME BRANCH, MUMBAI BEFORE THE HON'BLE SUPREME COURT
7. TRUE COPY OF AFFIDAVIT DATED 13.10.14 WITH THE FINAL REPORT FILED BY CRIME BRANCH, MUMBAI
8. TRUE COPY OF REPLY AFFIDAVIT DATED 17.11.2014 FILED BY THE PETITIONER BEFORE THE HON'BLE SUPREME COURT.
9. TRUE COPY OF COMPLAINT DATED 13.8.14 FILED BEFORE THE KASMIRA POLICE STATION, MUMBAI

RESPONDENTS ANNEXURES: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No.112 of 2014

Dated this the 5th day of January, 2015.

O R D E R

The petitioner herein is the accused in C.C No.5023/2013 of the Judicial First Class Magistrate, Chalakkudy. The second respondent herein is the de facto complainant in the said case. The second respondent is now represented by a learned counsel of her choice. The petitioner seeks transfer of the case to some other court in the Ernakulam District mainly on the ground that the learned Judicial First Class Magistrate, Chalakkudy now in office may have to be summoned as a witness in another case against her. Annexure R1 is copy of the statement given by the learned Magistrate in the other proceedings. As required by this court the learned Magistrate submitted remarks, stating the things that transpired in her court, when the petitioner herein was produced as accused. Of course, I am not inclined to accept or believe the allegations made by the petitioner against the learned Magistrate. The learned Magistrate has honestly reported the things that transpired in her court. There is report that when repeatedly asked about any sort of harassment at the hands of the police or

otherwise, the petitioner did not make any definite complaint, and in such a circumstance a petition filed by her was closed by the learned Magistrate. Anyway, the learned Magistrate has reported that she had given a statement to the Crime Branch in another proceeding against the petitioner herein. The learned Magistrate has also reported that she has no objection in transferring the case to some other court. Of course, in the above circumstances where the learned Magistrate may come as a witness in the other case, it would be only just and appropriate to transfer the case. I make it clear that the case is being transferred not on the allegations made by the petitioner against the learned Magistrate. Still, on the other ground mentioned above, transfer of the case is being ordered.

In the result, this petition is allowed. CC No.5023/13 now pending before the Judicial First Class Magistrate, Chalakkudy will stand transferred to the Judicial First Class Magistrate Court at Piravom. The learned Judicial First Class Magistrate, Chalakkudy will immediately transfer the records of the case to the other court.

P.UBAID,
JUDGE