

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

THURSDAY, THE 31ST DAY OF JULY 2014/9TH SRAVANA, 1936

Crl.MC.No. 71 of 2011

CC 1986/2006 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I,ATTINGAL

PETITIONER(S)/ACCUSED 1 TO 7, 9 TO 11 AND 13 TO 15:

1. DAMODARAN, S/O.MADHAVAN, 70 YEARS,
VETTATHIL HOUSE, PANDAKASALA, SHARKARA
CHIRAYINKEEZHU, TRIVANDRUM DISTRICT.
2. PRASANNA, D/O.MATHEVIPARU, AGED 63 YEARS
PADINJATTETHIL HOUSE, AZHOOR.
3. SUGANTHI, D/O.MATHEVIPARU, AGED 59 YEARS
PADINJATTETHIL HOUSE, AZHOOR.
4. KRISHNAMMA, W/O.PRATHAPACHANDRAN,
AGED 60 YEARS, PULITHOPPU VEEDU, GANAPATHIYAMKOVIL
AZHOOR.
5. REMANI, D/O.KRISHNAMMA, AGED 40 YEARS,
PULITHOPPU VEEDU, GANAPATHIYAMKOVIL, AZHOOR.
6. LALI, D/O.KRISHNAMMA, AGED 34 YEARS,
PULITHOPPU VEEDU, GANAPATHIYAMKOVIL, AZHOOR.
7. VINOD @ SHIBUKUMAR,
S/O.PRATHAPACHANDRAN, AGED 31 YEARS, PULITHOPPU VEEDU
GANAPATHIYAMKOVIL, AZHOOR.
8. ASHOK KUMAR, S/O.ACHUTHAN, AGED 44
YEARS, PUTHUVILA HOUSE, AZHOOR.
9. BABU, S/O.ACHUTHAN, AGED 43 YEARS,
PUTHUVILA HOUSE, AZHOOR.
10. GEETHA, D/O.ACHUTHAN, AGED 40 YEARS,
PUTHUVILA HOUSE, AZHOOR.

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- 11. SAJI, S/O.ANIRUDHAN, AGED 37 YEARS,
ANURADHA BHAVAN, MANJADIMOODU, SHARKARA
CHIRAYINKEEZHU.**
- 12. SAJAYAN, S/O.ASHOKAN, AGED 26 YEARS,
ASHOKA BHAVAN, KOLICHIRA, AZHOOR.**
- 13. BABU, S/O.RAMAKRISHNAN, AGED 50 YEARS,
ARAPPURA HOUSE, MANJADIMOODU, SHARKARA
CHIRAYINKEEZHU.**

**BY ADVS.SRI.M.R.ANANDAKUTTAN
SMT.M.A.ZOHRA
SRI.R.S.MADHU
SRI.MAHESH ANANDAKUTTAN**

RESPONDENT(S)/STATE AND COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 31.**
- 2. SUB INSPECTOR OF POLICE,
CHIRAYINKEEZHU POLICE STATION, CHIRAYINKEEZHU,
ATTINGAL - 695 304.**
- 3. SUMAN, W/O.ANIRUDHAN, SUMANGALI,
KURAKKADA, KIZHUVILAM, CHIRAYINKEEZHU - 695 304.**

**R1 & 2 BY PUBLIC PROSECUTOR SRI.JUSTIC JACOB
R-3 BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.JAGAN GEORGE
SRI.K.A.NOUSHAD
SRI.P.G.PRAMOD**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 31-07-2014,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

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APPENDIX

PETITIONERS' ANNEXURES

ANNEXURE I: CERTIFIED OF THE FINAL REPORT IN CC.NO.1986/06

ANNEXURE II: PHOTOCOPY OF THE DEED DATED

**ANNEXURE III: PHOTOCOPY OF THE ORDER DATED 18/12/09 ISSUED BY THE
REVENUE DIVISIONAL OFFICER.**

RESPONDENTS' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.HARIPRASAD, J.

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Dated this the 31st day of July, 2014.

ORDER

Petition filed under Section 482 Cr.P.C. Petitioners are accused 1 to 7, 9 to 11 and 13 to 15 in Crime No.38/2006 of Chirayinkeezhu police station now pending in C.C No.1986/2006 on the file of the Judicial First Class Magistrate Court - I, Attingal. Petitioners are implicated in offences punishable under Sections 120B and 465 r/w Section 34 I.P.C. Third respondent is the defacto complainant. She filed a complaint before police alleging the said offences. After investigation, the case was referred as false. Thereafter, she filed a protest complaint and the court took cognizance on the protest complaint.

2. Gist of allegations is that the accused conspired together and created false documents to defeat the property interests of CW's 1 and 2 and thereby they have committed the said offences.

3. Heard the learned counsel for the petitioners. There was no representation for the third respondent. Learned Public Prosecutor is also heard.

4. Learned counsel for the petitioners submitted that this is purely a civil dispute to which the defacto complainant has given a garb of a criminal case. According to the submission of the learned counsel for the petitioners this is an abuse of process of the court. The petitioners would contend that the property devolved on the members of the family was sold to the 12th petitioner herein by majority of sharers. The defacto complainant is also a member of the same family. She purchased one more share from a co-owner. Actually, the 12th petitioner and the defacto complainant are co-owners, according to the learned counsel for the petitioners. In spite of filing a partition suit, the defacto complainant is trying to coerce the petitioners for conceding to her unlawful claims over property, is the

contention raised by the learned counsel for the petitioners.

5. After considering the materials in the final report (Annexure I) and the copy of the sale deed (Annexure II), I am of the view that this is a civil dispute and the remedy of the defacto complainant lies elsewhere. Continuation of the proceedings is an abuse of process of the court.

In the result, the petition is allowed. Annexure I final report pending in C.C No.1986/2006 on the file of the Judicial First Class Magistrate Court - I, Attingal is hereby quashed.

All pending interlocutory applications will stand dismissed.

**A.HARIPRASAD,
JUDGE.**

amk