

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P. SOMARAJAN

FRIDAY, THE 26TH DAY OF FEBRUARY 2021 / 7TH PHALGUNA, 1942

Crl.MC.No.5491 OF 2020(F)

CMP 2524/2020 OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM

CRIME NO.469/2020 OF KOTTAKKAL POLICE STATION, MALAPPURAM

PETITIONER/1<sup>st</sup> ACCUSED:

M. SUGADHAKUMAR, AGED 43 YEARS,  
S/o LATE RADHAKRISHNAN NAIR, DHANYAM HOUSE,  
VENKITESA COLONEY EXTENSION, AMBIKAPURAM POST,  
PALAKKAD-678 011, NOW RESIDING AT FLAT NO.2B,  
ABUDABI TOWER, PALATHARA,  
KOTTAKKAL, MALAPPURAM-676 503.

BY ADV. SRI.LIJU. M. P

RESPONDENTS/COMPLAINANT & STATE:

1 ANSARI. K, AGED 45,  
S/o MOIDEENKUTTY, KUNDIL VEEDU,  
KAVATHIKALAM, KOTTAKKAL, MALAPPURAM-676 503.

2 STATE OF KERALA,  
REP BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA,  
ERNAKULAM-682 031.

R1 BY ADVS. SRI.V.HARI KRISHNAN  
SHRI.S.JAYANT

R2 BY PUBLIC PROSECUTOR SRI. E.C.BINEESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON  
26.02.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

## **ORDER**

The defacto complainant, an Electrical Contractor, supplied three Air-Conditioners to the Municipality and it was installed in the municipal premises under the guise that it was donated by somebody else. Hence the defacto complainant caused to register a crime for the offence under Sections 420, 463, 464, 471, 379, 384, 120B r/w Section 34 IPC against the Municipal Secretary and some of the Councilors, against which the Municipal Secretary came up.

2. It is submitted that nobody had authorised the defacto complainant to supply any item and no order of supply or work order was issued to him. The Municipality being a statutory body can issue only written orders. The defacto complainant was not expected to supply any item without a written order and if any item was supplied without any written order, he has to blame himself and cannot extend any criminal liability on the Municipal Secretary for the wrong done by him. Hence, the crime registered will not serve any

purpose as against accused No.1, the Municipal Secretary. The same is quashed as against accused No.1.

Crl.M.C. is allowed accordingly.

**Sd/-**

**P. SOMARAJAN**

**JUDGE**

DMR/-

## **APPENDIX**

### **PETITIONER'S ANNEXURES:**

**ANNEXURE A** CERTIFIED COPY OF COMPLAINT IN CMP NO 2524/2020 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM

**ANNEXURE B** CERTIFIED COPY OF FIR IN CRIME NO 469/2020 OF KOTTAKKAL POLICE STATION

**RESPONDENTS' ANNEXURE:** NIL

**// TRUE COPY //**

**P.A. TO JUDGE**