

Abbas, vs State of Kerala,

Abbas, vs State of Kerala,

SooperKanoon Citation : sooperkanoon.com/1283355

Court : Kerala

Decided On : Mar-11-2025

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/7899/2024

Appellant : ABBAS,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN TUESDAY,
THE 11TH DAY OF MARCH 2025/20TH PHALGUNA, 1946 CRIME
NO.218/2024 OF PERINTHALMANNA POLICE STATION,
MALAPPURAM AGAINST THE ORDER/JUDGMENT DATED
23.07.2024 IN MC NO.434 OF 2024 OF SUB DIVISIONAL
MAGISTRATE,PERINTHALMANNA PETITIONER/COUNTER
PETITIONER ABBAS, AGED 55 YEARS, S/O
KUNJIMUHAMMED,POTHUKADAN HOUSE,
PARIYAPURAM,PUTHANANGADI POST,
ANGADIPPURAM,MALAPPURAM DISTRICT PIN - 679321 BY ADV
K.B.GANGESH RESPONDENTS/STATE & PETITIONERS

1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031 2 SUB DIVISIONAL
MAGISTRATE COURT, OFFICE OF THE SUB DIVISIONAL
MAGISTRATE COURT, MINI CIVIL STATION,
PERINTHALMANNA,MALAPPURAM, PIN - 679322 3 STATION HOUSE
OFFICER, PERINTHALMANNA POLICE STATION, MALAPPURAM,
PIN - 679322 SRI. M.C. ASHI, PP. THIS CRIMINAL MISC. CASE
HAVING COME UP FOR ADMISSION ON 11.03.2025, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioner is aggrieved by Annexure A2 order

under Section 111 of the Code of Criminal Procedure issued by the Sub Divisional Magistrate, Perinthalmanna. By the impugned order, petitioner is called upon to show cause why he should not be compelled to execute a bond for Rs.50,000/- with sureties to keep peace for a period

of one year as provided in Section 107 of Cr.PC. The basis of the order is the report of the Station House Officer, Perinthalmanna Police Station stating that the petitioner is an accused in Crime No.218 of 2024 registered for offences under Sections 323, 324, 326, 308 and 506 r/w 34 of IPC and he is in the habit of creating law and order issues in the locality.

2. The learned Counsel for the petitioner

contended that, mere registration of a crime is not sufficient to curtail a persons liberty by requiring him to execute a bond for keeping peace. Annexure A2 order is also assailed on the ground that it does not reflect application of mind by the Sub Divisional Magistrate and the factors based on which she had reached the prima facie satisfaction that, unless prevented, petitioner will be a threat to the peace and tranquility in the locality.

3. The learned Public Prosecutor submitted that, apart from the crime, the report also mentioned that the petitioner is in the habit of creating law and

order issues.

4. The law is well settled through a series of

precedents that mere involvement in a crime, by itself, is not sufficient ground for the Sub Divisional Magistrate to exercise power under Section 107 of Cr.PC. For that, there should be materials to show that, unless prevented, petitioners activities will pose imminent threat to the peace and tranquility of the locality. The above crucial factors being absent in the impugned order, it is liable to be interfered with. In the result, the Crl.MC is allowed. Annexure A2

order and further proceedings thereon, as against the

petitioner, is quashed. Sd/- V.G.ARUN JUDGE Cak APPENDIX OF CRL.MC 7899/2024 PETITIONERS ANNEXURES ANNEXURE A1 A TRUE COPY OF THE REPORT FILED BY THE 3RD RESPONDENT BEFORE THE 2ND RESPONDENT

ANNEXURE A2 CERTIFIED COPY OF THE PRELIMINARY ORDER

DATED 23.07.2024 ISSUED BY THE 2ND RESPONDENT IN MC NO. 434/2024 ANNEXURE A3 PHOTOGRAPHS SHOWING THE STABBED WOUNDS ON THE PETITIONERS SON ANNEXURE A4 A TRUE COPY OF THE FINAL REPORT OF THE CASE NUMBERED AS SC NO. 426/2024 BEFORE THE DISTRICT AND SESSIONS COURT, MANJERI ANNEXURE A5 TRUE COPY OF THE ORDER IN CRL. MC NO. DISTRICT AND SESSIONS COURT, MANJERI

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com