

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

**Monday, the 28th day of November 2022 / 7th Agrahayana, 1944
OP(CRL.) NO. 608 OF 2022**

CC.NO.24/2016 OF CHIEF JUDICIAL MAGISTRATE COURT, AMINI, LAKSHADWEEP

PETITIONERS/ACCUSED NO.1 TO 15:

1. **MOHAMMED NAZER M.P.,**
AGED 46 YEARS, S/O.ATTAKOYA, MULLIPURA HOUSE,
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
2. **ABOO SALAM KOYA P.,**
AGED 72 YEARS, S/O.LATE ABOOBACKER KOYA,
PETTAMBALAM HOUSE, AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
3. **KASMIKOYA B.,**
AGED 56 YEARS, S/O.ABOOBACKER KOYA, BIYYAMMABIYODA (H),
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
4. **ABDUL NAZER**
AGED 45 YEARS, S/O.KASMIKOYA, POOVINODA(H)
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
5. **AHMAD KOYA**
AGED 55 YEARS, S/O.ABDUL KHADIRIKOYA,
CHACHALAKAPADA PATTINIYODA PUTHIYAILLAM(H), AGATTI ISLAND,
U.T.OF LAKSHADWEEP- 682553
6. **ABDUL SHUKOOR**
AGED 48 YEARS, S/O. ABOOBAKER, KUTTIYAM MUKRIYODA (H)
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
7. **ABDUL GAFOOR**
AGED 45 YEARS, S/O.ABOOBAKER, KUTTIYAM MUKRIYODA(H)
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553

8. **ABDUL KHADER KOYA**
AGED 55 YEARS, S/O.KUNHIKOYA, BANDER (H)
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
9. **ANWER SADIK**
AGED 47 YEARS, S/O.POOKOYA, KULI (H), AGATTI ISLAND,
U.T OF LAKSHADWEEP- 682553
10. **SAYED MOHAMMED K.I.,**
AGED 61 YEARS, S/O.MOHAMMED KOYA, KEELAILLAM (H),
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
11. **CHERIYA KOYA T.P.,**
S/O.KONJAN KOYA, THEKPUTHIYAILLAM (H), AGATTI ISLAND,
U.T OF LAKSHADWEEP- 682553
12. **SEETHI KOYA**
AGED 66 YEARS, S/O.ABOOBAKER KOYA, PONTINODA (H),
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
13. **THANGA KOYA K.I.,**
AGED 64 YEARS, S/O.MOHAMMED KOYA, KEELAILLAM
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
14. **SAYED MOHAMMED**
AGED 45 YEARS, S/O.ALIKOYA, BEEKUTTIYODA (H)
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553
15. **CHERIYAKOYA**
AGED 75 YEARS, S/O.SAYED KOYA, CHACHADA PATTINIYODA (H)
AGATTI ISLAND, U.T OF LAKSHADWEEP- 682553

RESPONDENTS/DEFACTO COMPLAINANT:

1. **UNION TERRITORY OF LAKSHADWEEP**
REPRESENTED BY THE STANDING COUNSEL, HIGH COURT OF KERALA
2. **THE STATION HOUSE OFFICER**
AGATTI POLICE STATION, AGATTI ISLAND,
U.T. OF LAKSHADWEEP- 682553

***ADDL.R3 IMPLAED**

3. **K.CHERIYAKOYA,**
FORMER SUB JUDGE/CHIEF JUDICIAL MAGISTRATE,
AMINI, LAKSHADWEEP, WHO IS NOW WORKING AS SECRETARY OF THE
DISTRICT LEGAL SERVICE AUTHORITY
***IS SUO MOTU IMPLAED AS ADDITIONAL 3RD RESPONDENT VIDE ORDER**
DATED 28/11/2022 IN OP(CRL)NO.608/2022

Petition praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to pass an order directing the Chief Judicial Magistrate Court, Amini, to keeping in abeyance all coercive proceedings pursuant to the judgment dated 15/11/2022 in CC.No.24/2016 pending consideration of this Original Petition.

This OP(Criminal) again coming on for orders upon perusing the petition and the affidavit filed in support thereof, and this Court's order dated 18/11/2022 and upon hearing the arguments of M/S.LAL K.JOSEPH, KOYA ARAFA MIRAGE, SURESH SUKUMAR, ANZIL SALIM and AKASH GEORGE, Advocates for the petitioners and of SRI.SAJITH KUMAR V., Standing Counsel for the 1st respondent and PUBLIC PROSECUTOR for the 2nd respondent, the court passed the following:

P.V.KUNHIKRISHNAN, J.

O.P.(Crl).Nos.608 & 609 of 2022

Dated this the 28th day of November, 2022

ORDER

When O.P.(Crl.) No.609/2022 came up for consideration on 17.11.2022, this Court passed the following order:

“The Registrar (District Judiciary) will get a report from the Chief Judicial Magistrate Court, Amini, about the allegations raised in this original petition, especially the allegations in paragraphs 6 to 10. The allegations raised in this original petition are very serious and therefore, the Registrar (District Judiciary), after getting the report, will give a remark about the same and append the report to this original petition. The Registrar (District Judiciary) will get the report forthwith.

Post on 28.11.2022.

Till then, no coercive steps shall be taken against the petitioners.”

2. Thereafter O.P.(Crl.) No.608/2022 also tagged with that original petition. As per the direction of this Court, the then Chief Judicial Magistrate gave a report and the Registrar

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(District Judiciary) produced the same with remarks. I am prima facie of the opinion that the explanation given by the Chief Judicial Magistrate is not acceptable. The main allegation against him is that, he manipulated the evidence of a witness. It is fundamental in criminal law that if a witness is examined before the Court, the deposition should be read over to the witness and he should sign the deposition then and there. The explanation of the Magistrate shows that PW7, the Investigating Officer in this case, after giving evidence, left the court premises without signing the deposition. Even if this is accepted, I am of the prima facie opinion that this is a clear case of dereliction of duty. * If PW7 has committed that mistake, he is also responsible.

3. K.Cheryakoya, Former Sub Judge/Chief Judicial Magistrate, Amini, Lakshadweep, who is now working as Secretary of the District Legal Service Authority, is suo motu impleaded as additional 3rd respondent in these original petitions.

4. This Court is of the opinion that a show cause notice is to be issued to the Chief Judicial Magistrate, who is now working as Secretary of the District Legal Service

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Authority, for not recommending disciplinary proceedings against him. In the meanwhile, the petitioners in these cases can appear through their lawyer before the lower court and the present Presiding Officer will issue a copy of the judgment to the petitioners so that the petitioners can file appeal before the appropriate court in accordance to law.

Therefore, following directions are issued:

1. Issue show-cause notice to the additional 3rd respondent for explaining; why disciplinary proceedings shall not be recommended against him. The additional 3rd respondent shall file his explanation to the show-cause notice before the next posting date. Registry will communicate this order to the additional 3rd respondent through e-mail forthwith.
2. The petitioners are free to approach the Chief Judicial Magistrate Court, U.T. of Lakshadweep, Amini Island, through Mukthiyar and the Magistrate will issue a copy of the judgment to the Mukthiyar on behalf of

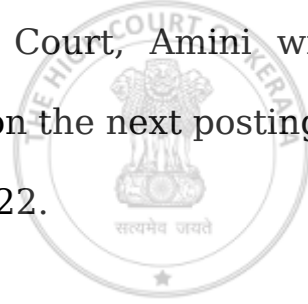
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the petitioners. The petitioners are free to file an appeal before the appropriate court in accordance to law.

3. No coercive steps shall be taken against the petitioners for a period of one month from today.
4. CW-19, who was examined as PW7 in C.C.No.24/2016 on the file of the Chief Judicial Magistrate Court, Amini will appear before this Court on the next posting date.

Post on 12.12.2022.



sd/-
P.V.KUNHIKRISHNAN
JUDGE

JV