



2025:KER:76017

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

MONDAY, THE 13<sup>TH</sup> DAY OF OCTOBER 2025/21ST ASWINA, 1947

CRL.MC NO. 8561 OF 2025

CRIME NO.1140/2024 OF KUNNATHUNADU POLICE STATION, ERNAKULAM

AGAINST THE ORDER/JUDGMENT IN MC NO.142 OF 2025 OF SUB DIVISIONAL

MAGISTRATE, MUVATTUPUZHA

PETITIONER/ACCUSED:

MV NITHAMOL,  
AGED 42 YEARS  
THENGANAL HOUSE, CHENGARA KARA, PATTIMATTOM VILLAGE,  
ERNAKULAM RURAL, KERALA, INDIA, PIN - 627950

BY ADVS.  
SHRI.BINU BABUKUTTAN  
SHRI.AROMALUNNI M.S.  
SMT.NIMA MERIYAM KOSHY  
SHRI.ANANTHAKRISHNAN A.  
SHRI.ROSHAN KURIAN ROY

RESPONDENT:

STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM,  
PIN - 682031

SRI. M.C. ASHI, SR.PP.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
13.10.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



**ORDER**

**Dated this the 13<sup>th</sup> day of October, 2025**

The petitioner is aggrieved by Annexure A4 order and Annexure A3 summons issued by the Sub Divisional Magistrate, Muvattupuzha under Sections 126, 130 and 132 of BNSS. The reason for issuing the order under Section 130, as discernible from Annexure A4, is the pendency of two crimes against the petitioner for offences punishable under Sections 406 and 420 of the Indian Penal Code.

2. The learned Counsel for the petitioner submitted that it becomes a matter of concern when, even with respect to crimes alleging commission of offences like breach of trust and cheating which are purely private in nature, proceedings under Section 130 of BNSS is initiated. It is further contended that the impugned order is passed without issuing the notice, as mandated under Section 126 of BNSS. It is further contended that the notice under Section 132 of



BNSS can be issued only in the event of the counter petitioner failing to appear after issuance of notice under Section 130 of BNSS, or when her arrest becomes inevitable in order to prevent breach of peace.

3. Learned Public Prosecutor submits that, by Annexure A4 order the petitioner has only been called upon to show cause why an order under Section 130 of BNSS should not be passed against him. According to the Public Prosecutor, the summons under Section 132 of BNSS would have been issued by reason of the petitioner's failure to appear before the Executive Magistrate.

4. Chapter IX of BNSS empowers the Executive Magistrates to issue necessary orders to ensure that peace and tranquility within their jurisdictional limits is not breached by any person. Be that as it may, action against the perpetrators can be taken only in accordance with procedure prescribed.



As rightly pointed out, the offences alleged against the petitioner, which is the reason for initiating the proceedings, are breach of trust and cheating. Being so, the Executive Magistrate is duty bound to state as to how the commission of those offences, which are more in the nature of private dispute, can result in breach of peace or the tranquility in the locality being disturbed. In Annexure A4 not only has the Executive Magistrate failed to state any such reason but even the substance of the information received is not set forth in the order.

For the aforementioned reasons the Crl.M.C is allowed and Annexure A4 order, quashed.

**Sd/-**  
**V.G.ARUN**  
**JUDGE**

ARK



APPENDIX OF CRL.MC 8561/2025

**PETITIONER ANNEXURES**

- |                    |   |
|--------------------|---|
| <b>ANNEXURE A1</b> | <b>A TRUE COPY OF THE FIR REGISTERED AGAINST THE PETITIONER IN CRIME NO: 1026/2024 OF KUNNATHUNADU POLICE STATION, ERNAKULAM RURAL DISTRICT</b>       |
| <b>ANNEXURE A2</b> | <b>A TRUE COPY OF THE FIR REGISTERED AGAINST THE PETITIONER IN CRIME NO: 1140/2024 OF KUNNATHUNADU POLICE STATION, ERNAKULAM RURAL DISTRICT</b>       |
| <b>ANNEXURE A3</b> | <b>A TRUE COPY OF THE NOTICE ISSUED BY THE SUB DIVISIONAL MAGISTRATE, MUVATTUPUZHA (MC NO. 142/2025, REPORT NO. 171/TD/2025/KND DATED 23.05.2025)</b> |
| <b>ANNEXURE A4</b> | <b>A TRUE COPY OF THE ORDER ISSUED BY THE SUB DIVISIONAL MAGISTRATE, MUVATTUPUZHA (MC NO. 142/2025)</b>   |