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**(2012) 08 KL CK 0009**

**High Court Of Kerala**

**Case No:** Criminal MC. No. 884 of 2012 (A)

M.G. Sreemon

APPELLANT

Vs

State of Kerala and  
Shivan

RESPONDENT

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**Date of Decision:** Aug. 3, 2012

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 197, 482
- Penal Code, 1860 (IPC) - Section 323, 341

**Hon'ble Judges:** S.S. Satheesachandran, J

**Bench:** Single Bench

**Advocate:** A.T. Anilkumar and Smt. V. Shylaja, for the Appellant; R. Rema, Public Prosecutor R1 and Sri. Latheesh Sebastian, R2, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

S.S. Satheesachandran, J.

Petitioner is the accused in C.C. No. 12/2010 of Judicial First Class Magistrate Court, Adimaly. He is being prosecuted for offences punishable u/s 323 and 341 of the Indian Penal Code, in the above case. Petitioner, a Sub Inspector of Police, a public servant is insulated from prosecution in respect of any offence alleged to have been committed while acting or purporting to act in discharge of his official duty, and the allegations imputed in the case raised on a private complaint relate to discharge of his official duties, is his case for quashing the criminal proceedings invoking the inherent jurisdiction of this court u/s 482 of the Code of Criminal Procedure. Section 197 of the Code postulate of an interdiction from taking cognizance of any offence against him without sanction from the Government is the challenge raised. If at all the petitioner has got such a challenge to resist his prosecution, naturally, it has to be canvassed before the Magistrate. The fact that cognizance has been taken by the Magistrate by issuing process to the accused will

not preclude him from raising that challenge, if he is so entitled to. So much so, I find that an enquiry on the challenge raised by the petitioner within the scope of Section 482 of the Code is not called for, and the petitioner is directed to raise the plea, if so available, before the Magistrate.

Subject to the observation made above, the petition is dismissed.