

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937**

**Crl.MC.No. 507 of 2015 ()**  
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**CC.NO. 173/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, MANJERI  
CRIME NO. 291/2012 OF AREACODE POLICE STATION , MALAPPURAM DISTRICT**  
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**PETITIONER/ACCUSED:**  
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**ABDUL NAZIR,  
S/O.SAIDALAVI,AGED 34 YEARS,  
VALIPARAMBAN HOUSE,  
KEEZHPARAMBU AMSOM AND DESOM,  
KEEZUPARAMBU P.O.,ERNAD TALUK,  
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.M.FIROZ  
SMT.M.SHAJNA  
SRI.S.KANNAN**

**RESPONDENT(S)/STATE AND COMPLAINANT:**  
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- 1. THE STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. THAYYIL PATTAKKAL MUJEEB RAHMAN,  
S/O.ABDUL SALAM,AGED 29 YEARS, KUNIYIL,  
KEEZHUPARAMBU AMSOM AND DESOM, P.O.KEEZHUPARAMBU,  
ERNAD TALUK, MALAPPURAM DISTRICT-676 505.**

**R1 BY PUBLIC PROSECUTOR SMT. P.MAYA  
R2 BY ADVS. SRI.U.K.DEVIDAS  
SMT.P.M.SHAHIDA**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD  
ON 30-09-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**sts**

**APPENDIX**

**PETITIONER(S)' ANNEXURES:**  
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- ANNEX-A1:** TRUE COPY OF PETITION DATED 23.07.2012 FILED BY THE 2ND RESPONDENT BEFORE THE SUB INSPECTOR OF POLICE, AREAKODE.
- ANNEX-A2:** TRUE COPY OF FIR DATED 23.07.2012 OF AREAKKODE POLICE STATION IN CRIME NO.291/2012.
- ANNEX-A3:** TRUE COPY OF THE ALLEGED AGREEMENT DATED 19.2.2012.
- ANNEX-A4:** TRUE COPY OF PLAINT IN O.S.224/2011 (WITHOUT SCHEDULE) ON THE FILE OF SUBORDINATE JUDGE OF MANJERI.
- ANNEX-A5:** TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE SECOND RESPONDENT IN O.S.224/2011 ON THE FILE OF SUBORDINATE JUDGE OF MANJERI.
- ANNEX-A6:** TRUE COPY OF THE ORDER DATED 13.11.2013 IN CRL.M.C.NO.3520 OF 2012 PASSED BY THIS HON'BLE COURT.
- ANNEX-A7:** TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE SUB INSPECTOR OF POLICE, AREAKKODE POLICE STATION BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI IN CRIME NO.291/2012.
- ANNEX-A8:** A TRUE COPY OF THE DECREE DATED 12.12.2012 IN O.S.NO.224/2011 PASSED BY THE SUB COURT, MANJERI.
- ANNEX-A9:** A TRUE COPY OF THE PLAINT IN O.S.NO.313/2012 ON THE FILES OF SUB COURT, MANJERI.
- ANNEX-A10:** A TRUE COPY OF THE WRITTEN STATEMENT IN OS.NO.313/2012 ON THE FILES OF SUB COURT, MANJERI.

**RESPONDENT(S)' ANNEXURES:** NIL  
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/TRUE COPY/

P.A.TO JUDGE

**B.KEMAL PASHA, J.**

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Crl.M.C. No. 507 of 2015

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Dated this the 30<sup>th</sup> day of September, 2015

**ORDER**

The petitioner is the accused in C.C.No.173/2014 of the Chief Judicial Magistrate's Court, Manjeri, which has arisen from Crime No.291/2012 of the Areakkode Police Station, Malappuram District, for the offence punishable under Section 420 IPC.

2. The prosecution case is that an amount of ₹28,50,000/- was due to CW1, who is the 2<sup>nd</sup> respondent herein from the petitioner. By agreeing to pay the said amount, an agreement was executed by the petitioner in favour of the 2<sup>nd</sup> respondent on 19.02.2012 at the house CW5 in the mediation conducted by CWs.2 to 5. The case is that the petitioner has not paid the amount so far.

3. The learned counsel for the petitioner has pointed

out that for the very same purpose, a civil suit has been filed and the same is pending.

4. On going through the facts and circumstances of the case, it is evident that the matter is more or less civil in nature and at the most, it is a breach of contract. Matters being so, Annexure A7 final report and all further proceedings in C.C.No.173/2014 of the Chief Judicial Magistrate's Court-I, Manjeri in Crime No.291/2012 of the Areakkode Police Station, Malappuram District, can be quashed.

In the result, Annexure A7 final report and all further proceedings in C.C.No.173/2014 of the Chief Judicial Magistrate's Court, Manjeri in Crime No.291/2012 of the Areakkode Police Station, Malappuram District, are hereby quashed.

Sd/-  
**B.KEMAL PASHA, JUDGE**

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