

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

Crl.MC.No. 639 of 2015 ()

**CC 1438/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ALUVA.
CRIME NO. 1563/2011 OF KALAMASSERY POLICE STATION, ERNAKULAM.**
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PETITIONER(S)/ACCUSED:

- 1. V.I.USMAN, AGED 66 YEARS,
S/O.HYDROSE, VALEPPILLY HOUSE,
VP MARAKKAR ROAD, EDAPPALLY,
THRIKKAKARA NORTH VILLAGE.**
- 2. V.U.AFSAL, AGED 34 YEARS,
S/O.V.I.USMAN, VALEPPILLY HOUSE,
V.P.MARAKKAR ROAD, EDAPPALLY.**
- 3. SUDHEER, AGED 40 YEARS,
S/O.KUNJUMUHAMMED, KEERAPPILLY HOUSE,
MUPPATHADAM, ELOOKKARA.**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH**

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. SMT.GEETHA RAVEENDRAN,
CHIEF MANAGER, THE FEDERAL BANK LTD.,
KALAMASSERY BRANCH - 683 104.**

**R1 BY PUBLIC PROSECUTOR
R2 BY ADVS. SRI.A.ANTONY
SMT.LEELAMMA ANTONY**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 12-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1- CERTIFIED COPY OF THE CHARGE SHEET DATED 14.01.2012
CC 1438/12 OF JFCM COURT II, ALUVA IN CRIME NO.1563/2011
OF KALAMASSERY POLICE STATION.**
- ANNEXURE A2- TRUE PHOTOSTAT COPY OF THE COMPLAINT
DATED 09.08.2011 BY THE 2ND RESPONDENT BEFORE THE
SHO KALAMASSERY.**
- ANNEXURE A3- THE SCENE MAHASSAR IN CRIME NO.1563/2011 OF
KALAMASSERY POLICE STATION DATED 10.08.2011.**
- ANNEXURE A4- THE TRUE PHOTOSTAT COPY OF THE COMMISSION REPORT
FILED BY THE ADVOCATE COMMISSIONER IN O.S.NO.145 OF
2012 BEFORE THE MUNSIFF COURT ERNAKULAM.**

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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Crl.M.C. No. 639 of 2015

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Dated this the 12th day of October, 2015

ORDER

The petitioners are the accused in C.C.No.1438 of 2012 of the Judicial First Class Magistrate's Court-II, Aluva, for the offences under Sections 453, 188 and 506(i) IPC read with Section 34 IPC.

2. The allegation against the petitioners is that they have committed trespass into the building, which was taken over possession by the Bank through SARFAESI proceedings and damaged notice, board etc. affixed on the walls, by destroying the lock of the door.

3. According to the petitioners, the entire matter has been settled between them and the Bank and the entire amounts due to the Bank has already been paid and presently, no proceedings are there against the petitioners.

4. The learned counsel for the 2nd respondent also endorses the fact that the entire liability has been discharged by

the petitioners and therefore, the Bank has no complaints against the petitioners. When the matter has been settled and the entire amounts due to the Bank has already been paid, there is no question of the continuance of SARFAESI proceedings in the matter. Matters being so, this is a fit case wherein, Annexure-A1 Final Report and all further proceedings based on it in C.C.No.1438 of 2012 of the Judicial First Class Magistrate's Court-II, Aluva can be quashed.

In the result, this Crl.M.C. is allowed and Annexure-A1 Final Report and all further proceedings based on it in C.C.No.1438 of 2012 of the Judicial First Class Magistrate's Court-II, Aluva are hereby quashed.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/12/10/15

// True Copy //

P.A. To Judge