

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. 678 of 2015

CC 720/2003 OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
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PETITIONER(S):

- 1. G.PEETHAMBABRAN, S/O.LATE GOPALAN NAIR,
AGED 54 YEARS, FLAT NO.72, M.HABITAT,
KURISUPALLY, VASDUTHALA, KOCHI - 23.**
- 2. N.BHAGYALAKSHMI, W/O.G.PEETHAMBARAN,
AGED 48, FLAT NO.72, J.M.HABITAT
VADUTHALA, KOCHI - 23.**

**BY ADVS.SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.JOJO GEORGE
SRI.V.S.SHIRAZ BAVA**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. STATE BANK OF INDIA,
HAVING ITS CORPORATE CENTRE AT BOMBAY
AND BRANCHES AMONG OTHER PLACES AT
ERNAKULAM, KTDC BUILDING, KOCHI - 11,
REPRESENTED BY ITS CHIEF MANAGER,
KRISHNA KUMAR, S/O.PARAMESHWARAN NAIR,
PALKULANGARA VILLAGE, THIRUVANANTHAPURAM.**

R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

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

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1.** TRUE COPY OF THE CRL.MP.NO. 13786/02 FILED BY THE 2ND RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
- ANNEXURE A2.** TRUE COPY OF THE CHARGE SHEET IN CC.NO. 720/03 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
- ANNEXURE A3.** TRUE COPY OF THE PLAINT IN OS.NO.16/02 FILED BY THE 2ND RESPONDENT BEFORE THE SUBORDINATE JUDGES COURT ERNAKULAM.
- ANNEXURE A4.** TRUE COPY OF THE 'B' DIARY PROCEEDINGS OF THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM IN CC.NO. 720/03 FROM 6.10.03 TO 24.4.12.
- ANNEXURE A4(A).** TRUE COPY OF THE 'B' DIARY PROCEEDINGS OF THE CHIEF JUDICIAL MAGISTRATE COURT ERNAKULAM IN CCNO. 720/03 FROM 8.5.12 TO 3.12.14.
- ANNEXURE A5.** TRUE COPY OF THE ORDER DATED 8.3.11 IN EP.NO. 24/07 IN OS.NO. 16/02.
- ANNEXURE A6.** TRUE COPY OF THE DEPOSITION OF 2ND RESPONDENT (PW1) DATED 1.10.2014 IN CC.720/03.
- ANNEXURE A7.** TRUE COPY OF THE CERTIFICATE SARB/99 DATED 21.12.13 MARKED AS EXHIBIT D1 DOCUMENT IN CC.720/03.

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.678 of 2015 E
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Dated this the 12th day of October, 2015

ORDER

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Petitioners are the accused in CC No.720/2003 of the Chief Judicial Magistrate's Court, Ernakulam for the offences punishable under Sections 403, 406 and 420 IPC. The case has arisen from Crime No.823/2002 of the Central Police Station, Ernakulam.

2. The allegation against the petitioners is that they have obtained a loan of ₹1,62,000/- from the 2<sup>nd</sup> respondent Bank for purchasing a flat and thereafter, without depositing the title deeds in respect of the flat before the 2<sup>nd</sup> respondent Bank, they have obtained an amount of ₹3 lakhs from another private financier at Bangalore by offering the very same property as security.

3. It has come out that the Bank had filed

OS.16/2002 before the Subordinate Judge's Court, Ernakulam, in respect of the very same matter and the same was decreed. The entire amounts covered by the decree was discharged by the petitioners. Annexure-A5 shows that full satisfaction of the decree was recorded in view of the memo filed by the decree holder Bank before the Subordinate Judge's Court, Ernakulam.

4. Over and above it, the Bank has issued Annexure-A7 letter dated 21.12.2013 stating that in a compromise settlement, the entire matter has been settled and EP24/2007 in OS.16/2002 was settled as the entire amount was paid. In Annexure-A7, it has been further clarified that the subject matter in CC No.720/2003 of the Chief Judicial Magistrate's Court, Ernakulam is the very same matter involved in OS.16/2002.

5. It seems that unnecessarily the trial is being prolonged. The entire matter has been settled between the parties. The entire amount due to the Bank in the

transaction with interest have been paid. The decree in respect of the said transaction was discharged. Matters being so, no fruitful purpose will be served in proceeding with the trial of the matter and, therefore, all further proceedings in CC No.720/2003 of the Chief Judicial Magistrate's Court, Ernakulam can be quashed.

In the result, this CrI.M.C. is allowed and all further proceedings in CC No.720/2003 of the Chief Judicial Magistrate's Court, Ernakulam as against the petitioners are quashed.

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

aks/12/10

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*PA to Judge*