

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

Crl.MC.No. 1313 of 2015

**ST 83/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA,
DATED 24-01-2015**

PETITIONER(S)/COMPLAINANT:

**SURESH KUMAR.G,
PUTHENPURIEKAL HOUSE, VENPALA P.O., THIRUVALLA.**

**BY ADVS.SRI.P.HARIDAS
SRI.P.C.SHIJIN**

RESPONDENT(S)/STATE & ACCUSED:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031.**
- 2. JOSEPH GEORGE,
MANAKKU PANTHRANTIL, AMICHAKARI P.O.,
THIRUVALLA-689 101.**

**R1 BY PUBLIC PROSECUTOR SMT.MAYA
R2 BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18-09-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE-1: TRUE COPY OF THE CHEQUE DRAWN OF HDFC BANK LTD,
CHENGANNUR BRANCH DATED 30.10.2012**

**ANNEXURE-2: TRUE COPY OF THE CHEQUE DRAWN ON FEDERAL BANK LTD.,
NEDUMBRAM BRANCH DATED 10.11.2012**

ANNEXURE-3: TRUE COPY OF THE AGREEMENT DATED 22.2.2011

ANNEXURE-4: TRUE COPY OF THE COMPLAINT IN S.T. NO.83/2013 DATED 2013

ANNEXURE-5: TRUE COPY OF THE ORDER IN S.T.NO.83/2013 DATED 24.1.2015

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
Crl.M.C. No.1313 of 2015
.....

Dated this the 18th day of September, 2015

ORDER

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This is a matter relating to ST.83/2013 pending before the Judicial First Class Magistrate's Court, Thiruvalla in respect of two dishonoured cheques, for the offence punishable under Section 138 of the NI Act. Based on the decision of the Apex Court in ***Dashrath Rupsingh Rathod Vs. State of Maharashtra*** [2014 (3) KLT 605 (SC)], the court below has chosen to pass Annexure-5 order for the return of the complaint for presentation before the appropriate court.

2. Subsequent to the decision noted in ***Dashrath*** (*supra*), the NI Act has been amended. It seems that both the cheques were presented at the Dhanalakshmi Bank, Thiruvalla Branch. Based on the amendment of the NI Act, the complaint is perfectly maintainable before the court

below and the court below is the court having jurisdiction to entertain the complaint. Therefore, Annexure-5 order is liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure-5 order is quashed. The court below is directed to proceed with the matter.

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

aks/18/09

*// True Copy //*

*PA to Judge*