

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Cr1.MC.No. 1555 of 2015 ()

IN CC 434/2007 OF JUDICIAL MAGISTRATE FIRST CLASS COURT-I,
ATTINGAL

PETITIONER(S) /ACCUSED:

MANIKANDAN,
S/O.SANKARAN NAIR,
PSN MANDIR, ATTINGAL.

BY ADV. SRI.B.KRISHNA MANI.

RESPONDENT(S) /COMPLAINANT/STATE:

1. RADHAKRISHNAN NAIR,
S/O.PARAMESWARAN PILLAI, RESIDING AT MANGALYA,
ATTINGAL DESOM, AVANAVANCHERY VILLAGE ATTINGAL,
THIRUVANANTHAPURAM DISTRICT.
2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY SENIOR PUBLIC PROSECUTOR SMT.SAREENA GEORGE P.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- ANNEXURE I- TRUE COPY OF THE COMPLAINT FILED BEFORE THE JUDICIAL
FIRST CLASS MAGISTRATE'S COURT, ATTINGAL DATED
26.3.2007.
- ANNEXURE II- TRUE COPY OF THE SUIT, O.S.320/2010 BEFORE THE SUB
COURT, ATTINGAL.
- ANNEXURE III- TRUE COPY OF THE AFFIDAVIT AND PETITION DATED
11.7.2012 IN OS.320/2010 BEFORE THE SUB COURT,
ATTINGAL.
- ANNEXURE IV- TRUE COPY OF THE AFFIDAVIT AND PETITION IN
C.C.434/2007 BEFORE THE JUDICIAL FIRST MAGISTRATE
COURT -I, ATTINGAL.
- ANNEXURE V- TRUE COPY OF THE APPLICATION, C.M.P NO. 6272/2014 IN
C.C.434/2007 BEFORE THE JUDICIAL FIRST MAGISTRATE
COURT -I, ATTINGAL
- ANNEXURE VI- TRUE COPY OF THE ORDER DATED 10.12.2014 IN C.M.P NO.
6272/2014 IN C.C.434/2007 BEFORE THE JUDICIAL FIRST
MAGISTRATE COURT -I, ATTINGAL

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P. UBAID, J.

Crl.M.C.No.1555 of 2015

Dated this the 11th day of March, 2015

JUDGMENT

The petitioner herein is the accused in C.C.No.347/2007 of the Judicial First Class Magistrate Court-I, Attingal. After closing the complainant's evidence, the trial court granted opportunity to the accused to adduce defence evidence. By the time, the report of scientific examination was received from the Forensic Science Laboratory. It is not known whether the report stands marked. Any way, after two postings the accused made an application on 04.12.2014 under Section 311 Cr.P.C. to re-open the evidence. The learned Magistrate dismissed the said application (CMP No.6272/2014) on 10.12.2014 on the ground that the case is an old one. The learned Magistrate also observed that re-opening the evidence will not serve any purpose. The accused is aggrieved. He wants opportunity to examine himself under Section 315 Cr.P.C. with the permission of the court. His grievance is that if he is not allowed to adduce evidence explaining the circumstance in which the cheque in question happened to be issued, it will cause harm and hardship to him. On a perusal of the impugned order, and on hearing the learned counsel, I find that opportunity can be granted to the accused in the interest of justice. If he has a genuine case to be presented before the court by way of defence

evidence, his request cannot be disallowed on the ground that the case is an old one. Whatever be the age of the case, the right of the accused to adduce evidence cannot be denied.

In the result, this petition is allowed. The impugned order is hereby set aside, and the court below is directed to grant an opportunity to the petitioner to adduce his own evidence including his examination under Section 315 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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