

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Crl.MC.No. 1740 of 2015 ()

**CMP NO. 166/14 IN ST NO. 26/12
OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III, KOLLAM**

PETITIONER/ACCUSED :

**M. NAZARUDEEN, AGED 53 YEARS
S/O. MYTHEEN KUNJU, PROPRIETOR,
A.A.V. FOOD & BEVERAGES, IV/50
MAROTTICHODU, EDAPPALLY P.O.,
KOCHI.**

**BY ADVS.SRI.SUSHANTH J.
SMT.ELIZABETH OLIVER
SMT.REENA ABRAHAM**

RESPONDENTS/COMPLAINANT & STATE :

**1. A.ABDUL KALAM,
AGED 63 YEARS, S/O. ABDUL KARIM,
LAKNOR MANZIL, MANAKKAD
VADAKKEVILA P.O., VADAKKEVILA VILLAGE,
KOLLAM.**

**2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.SAJU J. PANICKER
R2 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 1740 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE A1: TRUE COPY OF PETITION DATED 27.10.2014 FILED BY
 PETITIONER BEFORE THE JUDICIAL FIRST CLASS
 MAGISTRATE'S COURT III, KOLLAM.**

**ANNEXURE A2: TRUE COPY OF THE ORDER DATED 24.12.2014 OF THE
 JUDICIAL FIRST CLASS MAGISTRATE'S COURT III, KOLLAM.**

RESPONDENT(S)' ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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Crl.M.C. No. 1740 of 2015

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Dated this the 18th day of December, 2015

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent.

2. The matter relates to S.T No.26/2012 of the Judicial First Class Magistrate's Court-III, Kollam, for the offences under Section 138 of the Negotiable Instruments Act. The petitioner is the accused. The petitioner has filed CMP No.166/2014 before the court below in the case for sending the cheque in question for comparison by an expert for examination of the signature and the handwriting. In the CMP, it was alleged that the signature in the cheque was not affixed by the petitioner and the contents were not written in his handwriting.

3. The court below has specifically observed in Annexure-A2 order that, in the reply notice, the accused had no such contention. Over and above it, the accused had no such contention when the complainant was subjected to cross-examination. Mainly on these grounds, the court below has dismissed the said CMP.

4. Annexure-A2 order is self speaking. When the petitioner had no case in the cross-examination of the complainant that the signature contained in the cheque is not that of the petitioner and the handwriting in the cheque were not made by him, there is no meaning in sending the cheque for examination by the handwriting expert.

5. The learned counsel for the petitioner has read over the contents of the reply notice. Apart from the contention that the cheque was taken away from his possession, he has no contention in the reply notice that the cheque does not bear his signature and the contents in the cheque were not written in his handwriting.

There is absolutely nothing to interfere with Annexure-A2 order. This Crl.M.C is devoid of merits and is only to be dismissed and I do so.

In the result, this Crl.M.C is dismissed.

Sd/-
B.KEMAL PASHA, JUDGE

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