

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

Crl.MC.No. 1745 of 2015

CC 777/2005 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA.
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PETITIONER/SOLE ACCUSED:

**P.J.SUNNY, AGED 55, S/O.JOHN V T.,
PADINJAREMANNIL HOUSE,
VADASSERIKKARA P.O.,
PATHANAMTHITTA DISTRICT - 689 672.**

**BY ADVS.SRI.V.PHILIP MATHEW
SRI.JEPH JOSEPH**

RESPONDENTS/DEFACTO COMPLAINANT & STATE:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. FEDERAL BANK LIMITED
KUNNAMTHANAM BRANCH, PATHANAMTHITTA - 689 645,
REPRESENTED BY ITS SENIOR MANAGER.**
- 3. ASSISTANT GENERAL MANAGER AND REGIONAL HEAD,
FEDERAL BANK LIMITED, REGIONAL OFFICE
PATHANAMTHITTA - 689 645.**
- 4. THE FEDERAL BANK LIMITED,
REPRESENTED BY ITS CHAIRMAN,
REGISTERED OFFICE, ALUVA,
ERNAKULAM DISTRICT - 682 101.**

**R1 BY PUBLIC PROSECUTOR SMT.S.HYMA
R2 TO R4 BY ADVS. SRI.A.ANTONY
SMT.LEELAMMA ANTONY**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 26-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1:** COPY OF COMPLAINT DATED 02/03/2005 FILED BY THE
2ND RESPONDENT BEFORE THE SUB INSPECTOR OF
KEEZHVAIPOOR POLICE STATION ALONG WITH LETTER
DATED 22/02/2015.
- ANNEXURE A2:** COPY OF FIR NO. 74/2005 IN CRIME NO. 74/2005.
- ANNEXURE A3:** COPY OF CHARGE SHEET IN CRIME NO. 74/2005.
- ANNEXURE A4:** COPY OF PLAINT IN OS NO. 215/2007.
- ANNEXURE A5:** COPY OF AWARD PASSED BY THE LOK ADALAT IN
OS NO. 215/2007.

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Crl.M.C.No. 1745 of 2015

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Dated this the 26th day of May, 2015

O R D E R

The petitioner in this Criminal Miscellaneous Case is the sole accused in Calendar Case, C.C.No.777/2005 on the file of the Judicial First Class Magistrate's Court, Thiruvalla. The said case arose out of Anx.3 final report/charge sheet filed by the Police in Anx.2 Crime No.74/2005 of Keezhvaipoor Police Station, Thiruvalla, registered for offence under Sec.408 of the IPC. The gist of the allegation is that the petitioner, while working as Head Clerk in the respondent Federal Bank at Kunnamthanam branch during 1.3.2000 to 12.2.2001, had misappropriated funds of that bank amounting to Rs. 3,60,591/- on various dates. The respondent Federal Bank filed Original Suit, O.S.No.215/2007 before the Sub Court, Pathanamthitta against the petitioner to realise an amount of Rs.40,90,557/- including the aforementioned amount involved in the above said crime. The Sub Court, Pathanamthitta referred the said Suit to Lok Adalath for settling of the disputes. The matter was

settled during the Adalath between the petitioner and the respondent Federal Bank on condition that the petitioner shall pay an amount of Rs.13.1 lakhs to the Bank for settlement of the entire disputes. The petitioner insisted that the said amount will be paid on condition that the respondent Bank authorities will have to withdraw the impugned criminal proceedings registered against him. It is averred that the respondent Bank authorities agreed that the impugned criminal proceedings against the petitioner would also be withdrawn on payment of the above said amount of Rs.13.1 lakhs and based on the above said settlement, Anx.5 award was passed by the Lok Adalath. In Anx.5 award it is agreed to by the respondent Federal Bank that consequent to the settlement of the civil disputes between the parties, there will no further litigation in that regard between the parties. It is in the light of these aspects that the the petitioner has preferred the above Cr1.M.C. with the prayer to quash the impugned criminal proceedings against the petitioner.

2. Heard Sri.V.Philip Mathews, learned counsel for the petitioner, Sri.A.Antony, learned Standing Counsel appearing for the

respondent Federal Bank and the learned Public Prosecutor appearing for the respondent State.

3. The learned counsel for the petitioner reiterated the submissions and contentions in the Crl.M.C. The learned Standing Counsel for the Federal Bank submitted that the entire disputes between the petitioner and the Bank have been settled and the Bank has no objection in the quashment of the impugned criminal proceedings against the petitioner. The learned Public Prosecutor submitted that the prayer for quashment of the impugned criminal proceedings may be considered in the light of the legal principles laid down by the Apex Court and by this Court on the subject.

4. On a consideration of the entire facts and circumstances of the case and the settlement arrived at between the petitioner and the Bank, this Court of the considered opinion that the prayer for quashment of the impugned criminal proceedings could be considered in the light of the legal principles laid down by the Apex Court and by this Court on the subject. Accordingly, it is ordered in the interest of justice that impugned proceedings as per Anx.3 final report/charge sheet in Crime No.74/2005 of Keezhvaipoor Police

Station, Thiruvalla, which has led to the pendency of C.C.No. 777/2005 on the file of the Judicial First Class Magistrate's Court, Thiruvalla and all further proceedings arising therefrom stand quashed.

The CrI.M.C. is disposed of as above.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge