

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

Cr1.MC.No. 1813 of 2015

IN S.T 91/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
KOYILANDY

PETITIONERS/ACCUSED:

SATHYANARAYANAN NAMBOOTHIRI, AGED 42 YEARS,
S/O.NARAYANAN NAMBOOTHIRI,
RESIDING AT PEESHPPILI MANA,
PORAVUR, KARIKKADU P.O,
TALAPPILLY THALUK,
THRISSUR.

BY ADV. SRI.A.CHANDRA BABU

RESPONDENTS/STATE:

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
KOCHI - 31.
2. MAHESH.M,
S/O.BABU, KANIYARAKKAL THAZHAM,
P.O ERANHIKKAL, KOZHIKODE,
PIN- 673 303.
3. BEENA KUMARI.A,
D/O.GOVINDAN NAMBOOTHIRI,
AMBILI ILLAM, VILLIYAPILLI ROAD,
KADAMERI P.O, VADAKARA - 673 531.

R1 BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE I: COPY OF THE ADVOCATE NOTICE DATED 27.2.2011

ANNEXURE II: COPY OF THE AGREEMENT ENTERED BETWEEN THE PETITIONER AND ONE BIJU DATED 8.1.2008

ANNEXURE III: COPY OF THE REPLY NOTICES DATED 4.3.2011

ANNEXURE IV: COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT AS S.T NO.91/2012 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KOILANDY

ANNEXURE V: COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE J.F.M.C, KUNNAMKULAM AS C.M.P NO.2106/2014.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.1813 of 2015

Dated this the 20th day of March, 2015

O R D E R

The petitioner herein is the accused in S.T No.91/2012 of the Judicial First Class Magistrate Court, Koyilandy. This is a prosecution brought under Section 138 of the Negotiable Instrument Act. The petitioner seeks orders quashing the complaint and the prosecution thereon on the ground that the cheque in question is not supported by consideration and that it was in fact handed over in some other transaction. He relies on an agreement. The things stated in the petition as grounds to quash the prosecution, are matters to be gone into and decided by the trial court. Those are defences that can be taken in a prosecution under Section 138 of the Negotiable Instruments Act. On those grounds the prosecution cannot be quashed under Section 482 of the Code of Criminal Procedure. Whether the agreement relied on by the petitioner is true and genuine, whether the cheque is supported by consideration, whether the cheque was bounced due to insufficiency of funds, whether the cheque was in fact handover

in some other transaction etc. are matters to be decided by the trial court. Those things cannot be gone into or adjudicated in a proceeding under Section 482 of the Code of Criminal Procedure. I find that this Criminal Miscellaneous Case does not deserve consideration.

In the result, this Criminal Miscellaneous Case is dismissed in limine without being admitted to files.

**P.UBAID
JUDGE**

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