

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ALEXANDER THOMAS

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

Crl.MC.No.1869 of 2015

**CC NO.606/2005 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,RANNI.
CRIME NO.48/2005 OF PERUNAD POLICE STATION,PATHANAMTITTA.**

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PETITIONER/SOLE ACCUSED:

**P.J.SUNNY,AGED 55 YEARS,S/O.JOHN V.T,
PADINJAREMANNIL HOUSE,
VADASSERIKKARA P.O,
PATHANAMTHITTA DISTRICT-689672.**

**BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE
SRI.JEPH JOSEPH**

RESPONDENTS/DEFACTO COMPLAINANT & STATE:

- 1. STATE OF KERALA,REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682031.**
- 2. FEDERAL BANK LIMITED,VADASSERIKKARA BRANCH,
PATHANAMTHITTA DISTRICT-689581,
REPRESENTED BY ITS SENIOR MANAGER.**
- 3. ASSISTANT GENERAL MANAGER AND REGIONAL HEAD,
FEDERAL BANK LTD,REGIONAL OFFICE,
PATHANAMTHITTA -689645.**
- 4. THE FEDERAL BANK LTD,REP. BY ITS CHAIRMAN,
REGISTERED OFFICE,ALUVA,ERNAKULAM DISTRICT-683101.**

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

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

Crl.MC.No.1869 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE 1: COPY OF COMPLAINT DTD 2/3/2005 FILED BY THE 2ND
RESPONDENT.**

**ANNEXURE 2: COPY OF FINAL REPORT IN CRIME NO.48/05 PERUNAD POLICE
STATION.**

ANNEXURE 3: COPY OF PLAINT IN OS NO 215/2007 S.C,PATHANAMTHITTA.

**ANNEXURE 4: COPY OF AWARD PASSED BY THE LOK ADALATH IN OS
NO. 215/2007**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 1869 of 2015

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Dated this the 26th day of May, 2015

O R D E R

The petitioner is the sole accused in Calendar Case, C.C.No.606/2005 pending before the Judicial First Class Magistrate's Court, Ranny. The said case arose out of Anx.2 final report/charge sheet filed by the Police in Crime No.48/2005 of Perunadu Police Station, registered for offence under Sec.408 of the IPC, which has led to the aforementioned Calendar Case, C.C.No. 606/2005 on the Judicial First Class Magistrate's Court, Ranny. The gist of the allegation is that while the petitioner was working as Assistant Manager in the respondent Federal Bank at Vadasserikkara branch during 19.2.2001 to 15.12.2004 had misappropriated the funds of that bank amounting to Rs.4,95,983/- 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 settlement 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 respondent 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 further averred that the respondent Bank authorities agreed that the criminal proceedings registered against the petitioner would also be withdrawn on payment of the above said amount of Rs.13.1 lakhs. That based on the above said settlement, Anx.4 award was passed by the Lok Adalath in the above said proceedings. In Anx.4 award it is specifically 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. The petitioner has also raised a specific contention that the allegations raised in Anx.1 and Anx.2 will not constitute offence under Sec.408 of the IPC. It is in the light of these aspects that the the petitioner has preferred the above Crl.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. In the view that this Court proposes to take in this matter, there is no necessity to consider the plea of the petitioner that no offence under Sec.408 of the I.P.C. is disclosed in this case.

5. On a consideration of the entire facts and circumstances of the case and the settlement arrived at between the petitioner and the respondent 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 the impugned proceedings as per Anx.2 final report/charge sheet filed in the impugned Crime No.48/2005 of Perunadu Police Station, which has led to the pendency of C.C.No.606/2005 on the file of the Judicial First Class Magistrate's Court, Ranny, and all further proceedings arising therefrom pending against the petitioner stand quashed.

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

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge