

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

Crl.MC.No. 1082 of 2013

**OS 525/2012 OF SUB COURT, KANNUR.
CRIME NO. 2291/2012 OF KANNUR TOWN POLICE STATION, KANNUR DISTRICT.**
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PETITIONER(S)/ACCUSED:

- 1. DR.PAJITH KUMAR,
S/O. DEVADAS, "ASHOKA", THILLERI,
CANTONMENT KANNUR- 670 002.**
- 2. DR. ANITHA, W/O.DR.PAJITH KUMAR,
"ASHOKA", THILLERI, CANTONMENT,
KANNUR- 670 002.**

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENT(S)/STATE & DE-FACTO COMPLAINANT :

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. C.K. SNEHADEEPA, W/O. SUNILKUMAR PANNIAN,
"SURABHI", PALLIKUNNU POST,
NOW RESIDING AT "NIRMAL", THALAP, KANNUR - 670002.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R2 BY SRI.M.RAMESH CHANDER (SENIOR ADVOCATE)
ADV. SRI.ANEESH JOSEPH**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 14-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A : TRUE COPY OF THE PLAINT IN OS.NO.525 OF 2012 ON THE
FILE OF SUB COURT, KANNUR.

ANNEXURE B : TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE
1ST PETITIONER IN OS.NO.525 OF 2012 ON THE FILE OF SUB
COURT, KANNUR.

ANNEXURE C : CERTIFIED COPY OF THE F.I.R.ALONG WITH F.I.S. IN
CRIME NO.2291/2012 OF KANNUR TOWN POLICE STATION.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

B.KEMAL PASHA, J.

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Crl.M.C. No. 1082 of 2013

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Dated this the 14th day of October, 2015

ORDER

A private complaint has been filed alleging offence under Section 420 IPC read with Section 34 IPC as against the petitioners, by the 2nd respondent before the Judicial First Class Magistrate's Court-I, Kannur. The said complaint was referred to the Police under Section 156 (3) Cr.P.C. Consequently, Crime No.2291 of 2012 of the Kannur Town Police Station has been registered through Annexure-C First Information Report for the offence under Section 420 IPC read with Section 34 IPC.

2. The case of the complainant is that by agreeing to sell the property of the petitioners, the petitioners obtained an

amount of ₹25,00,000/-, by way of part of consideration from the 2nd respondent and thereafter, they have backed out from the promise, and so far they have not cared to execute the sale deed. The learned counsel for the petitioners has pointed out that a civil suit is pending in the matter as O.S.No.525 of 2012 before the Subordinate Judge's Court, Kannur. The said suit was filed by the 2nd respondent herein as plaintiff seeking a decree for the return of the advance money/part of consideration allegedly paid. In the suit, the property was attached and for lifting the attachment, the petitioners have furnished security for ₹25,00,000/- and got the attachment lifted. According to the learned counsel for the petitioners, it was when the security was furnished and the attachment was about to be lifted, the 2nd respondent has chosen to file Annexure-C private complaint before the Judicial First Class Magistrate's Court-I, Kannur, based on which the present crime has been registered. It is the further case of the petitioners that only an amount of ₹6,00,000/-

was received by the petitioners from the 2nd respondent and it was a mere money lending by the 2nd respondent. According to the learned counsel for the petitioners, that is the reason why the 2nd respondent has filed the suit just for the recovery of the advance money, without seeking a better relief of specific performance of the contract. Even according to the 2nd respondent, there is only an oral agreement and the same is not even in writing.

3. At any stretch of imagination, the contents of the complaint as well as Annexure-C First Information Report do not reveal the necessary ingredients of an offence under Section 420 IPC. Matters being so, further investigation in the matter will be of no use at all and will be a sheer waste of time and energy. In such case, this Court is satisfied that Annexure-C First Information Report and all further proceedings pursuant thereto can be quashed.

In the result, this Crl.M.C. is allowed and Annexure-C First

Information Report in Crime No.2291 of 2012 of the Kannur Town Police Station and all further proceedings pursuant thereto, are hereby quashed.

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/14/10/15

// True Copy //

P.A. To Judge