

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

Crl.MC.No. 2226 of 2015 ()

**CC. NO.165/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
CRIME NO. 1156/2013 OF CENTRAL POLICE STATION, ERNAKULAM DISTRICT.**

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PETITIONERS/ACCUSED NOS,1 & 2:

- 1. P.T RAJAN, AGED 43 YEARS,
S/O.VEERAN, RESIDING AT MANGALATHALIYIL,
PETTA POST, FEROCK VILLAGE,
KOZHIKODE TALUK, KOZHIKODE DISTRICT.**
- 2. K.A. SIRAJ MATHER, AGED 54 YEARS,
S/O.ABDUL REHMAN MATHER, NO.33/29,
PAVOOR ROAD, PADIVATTOM, PAVOOR ROAD,
EDAPPALLY NORTH VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.C.P.UDAYABHANU,
SMT.T.V.ASWATHY,
SMT.P.AMENISHA,
SRI.BALU TOM.**

RESPONDENTS/COMPLAINANT:

- 1. M/S. MATHER PROJECTS PRIVATE LTD.,
CORPORATE OFFICE, KODIYATTU CHAMERS,
RAJAJI ROAD, KOCHI-682 035,
REPRESENTED BY ITS CHIEF EXECUTIVE DIRECTOR
AND CHIEF EXECUTIVE OFFICER N.ASHOKAN,
AGED 55 YEARS, S/O.NARAYANAKURUP.**
- 2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.PRAVEEN K. JOY
R2 BY SR. PUBLIC PROSECUTOR SRI.C. RASHEED.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

ANNEXURE I	CERTIFIED COPY OF THE FINAL REPORT DATED 08/08/2014 TAKEN AS C.C. NO.165/2014 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE, ERNAKULAM.
ANNEXURE II	COPY OF THE COMPLAINT C.M.P. NO.2713/2013 DATED 25/05/2013 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE, ERNAKULAM.
ANNEXURE III	COPY OF THE PLAINT DATED 15/01/2013 IN O.S. NO.60/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE IIIA	COPY OF THE PLAINT DATED 15/01/2013 IN O.S. NO.61/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE IIIB	COPY OF THE PLAINT DATED 15/01/2013 IN O.S. NO.63/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE IV	COPY OF THE ORDER OF TEMPORARY INJUNCTION DATED 21/01/2013 IN I.A. NO.416/2013 IN O.S. NO.60/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE IVA	COPY OF THE ORDER OF TEMPORARY INJUNCTION DATED 21/01/2013 IN I.A. NO.419/2013 IN O.S. NO.61/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE IVB	COPY OF THE ORDER OF TEMPORARY INJUNCTION DATED 21/01/2013 IN I.A. NO.435/2013 IN O.S. NO.63/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE V	COPY OF THE WRITTEN STATEMENT DATED NIL IN O.S. NO.60/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE VA	COPY OF THE WRITTEN STATEMENT DATED 20/10/2013 IN O.S. NO.61/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE VB	COPY OF THE WRITTEN STATEMENT DATED 09/10/2013 IN O.S. NO.63/2013 ON THE FILE OF THE SUB COURT, ERNAKULAM.
ANNEXURE VI	COPY OF THE APPLICATION DATED 19/02/2013 IN G.C. NO.11/2013 ON THE FILE OF THE CONTROLLING AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT 1972.

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**ANNEXURE VIA COPY OF THE WRITTEN STATEMENT DATED 30/07/2013 IN
G.C. NO.11/2013 ON THE FILE OF THE CONTROLLING
AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT 1972.**

**ANNEXURE VIB COPY OF THE PROOF AFFIDAVIT DATED 23/01/2014 IN
G.C. NO.11/2013 ON THE FILE OF THE CONTROLLING
AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT 1972.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

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Dated this the 28th day of September, 2015

ORDER

Petitioners are the accused in C.C.No.165/2014 of the Chief Judicial Magistrate's Court, Ernakulam, which has arisen from Crime No.1156/2013 of the Central Police Station, Ernakulam, for the offences punishable under Sections 420 and 409 read with Section 34 IPC. The petitioners have come up with the prayer to get Annexure-I final report and the proceedings in C.C.No.165/2014 of the Chief Judicial Magistrate's Court, Ernakulam, quashed.

2. Heard the learned counsel for the petitioners, the learned Senior Public Prosecutor and the learned counsel for the contesting party respondent.

3. The learned counsel for the petitioners has pointed out that this is a dispute among the members of the very same family in respect of a company which has got a

standing of around 150 years. It has also been requested that the matter can be referred to a Mediator, so that a mediation can be attempted.

4. There are serious allegations levelled against the petitioners. The correctness of such allegations cannot be gone through by this Court on merits at present as it is a matter which requires evidence. At the same time, the said aspects can be brought to the notice of the court below by the petitioners through an application under Section 239 Cr.P.C. at that stage.

5. Considering the seriousness of the allegations against the petitioners, I do not think that this Court can refer the matter for a mediation. Of course, in case of any settlement between the parties subsequently, they can once again approach this Court under Section 482 Cr.P.C. for the very same relief.

In the result, this Crl.M.C is closed by giving liberty to the petitioners to file an application before the court below

under Section 239 Cr.P.C. The court below shall not insist the personal presence of the petitioners till the stage of Section 239 Cr.P.C.

Sd/-
B.KEMAL PASHA, JUDGE

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