

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

CrI.MC.No. 2928 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN CC 1176/2013 of J.M.F.C.-II, PERINTHALMANNA

PETITIONER(S)/ACCUSED:

**BASHEER AGED 42 YEARS, S/O.ABDULLA, ACHIYAN HOUSE,
KELLOOR 6TH MILE P.O, MANANTHAVADI, WAYANAD DISTRICT.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S)/STATE/COMPLAINANT:

- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. V.K.HAMEED, S/O.HAMZA, AGED 44 YEARS, KATTEKKAD HOUSE,
ALIPARAMBA P.O, MALAPPURAM DISTRICT.**

R2 BY ADV. SMT.P.M.SHAHIDA

R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21-05-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.M.C.No. 2928/2015

APPENDIX

PETITIONER(S)' EXHIBITS:

Anx. I. COPY OF THE PRIVATE COMPLAINT DTD.20.3.2012.

Anx. II. ORIGINAL OF THE AFFIDAVIT OF THE R2.

RESPONDENT(S)' EXHIBITS:

NIL.

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P.S. to Judge

ALEXANDER THOMAS, J.

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Crl.M.C.No. 2928 of 2015

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Dated this the 21st day of May, 2015

ORDER

The petitioner is the sole accused in Calender Case, C.C.No.1176/2013 on the file of the Judicial First Class Magistrate's Court-II, Perinthalmanna, for offences involving those under Secs.420, 465 and 468 of the Indian Penal Code. The 2nd respondent herein instituted a private criminal complaint under Secs.190 and 200 of the Code of Criminal Procedure before the aforementioned court as per Anx.I, which led to the institution of the aforementioned Calendar Case.

2. The brief of the prosecution case is that the petitioner herein had issued a cheque for Rs.1,50,000/- on 9.10.2011 to the 2nd respondent and that the cheque was dishonoured on 23.12.2011 and that on 5.1.2012 the 2nd respondent sent a lawyer's notice to the petitioner and that the petitioner did not pay the said cheque amount to the 2nd respondent. Certain other allegations are made that as the signature in the dishonoured cheque had differed from

that of the signature of the petitioner, offences involving Secs. 465 and 468 were also alleged in the said complaint.

3. It is now stated that all the disputes between the petitioner and the 2nd respondent on these monetary transactions have been settled due to intervention of mediators and that the 2nd respondent has sworn to affidavit as per Anx.II on 9.5.2015 stating that the entire disputes between the parties have been resolved amicably by mediation and that he has no objection in the quashment of the impugned criminal proceedings pending against the petitioner, which has resulted in C.C.No.1176/2013 on the file of the court below concerned.

4. Heard Sri.U.K.Devidas, learned counsel appearing for the petitioner, Smt.P.M.Shahida, learned counsel appearing for the 2nd respondent and the learned Public Prosecutor appearing for the 1st respondent–State of Kerala.

5. The learned counsel for the petitioner has reiterated the submissions of the petitioner as raised in the Criminal Miscellaneous Case. The learned counsel for the 2nd respondent would submit that the 2nd respondent is ready to withdraw Anx.I private criminal complaint and that as the offences under Secs.465

and 468 of the IPC are not compoundable under Sec.320 of the Code of Criminal Procedure, the prayer of quashment may be allowed by this Court in the interest of justice invoking its inherent powers conferred under Sec.482 of the Code of Criminal Procedure. It is submitted that this may be so ordered by the court in the interest of justice so as to maintain the harmony and good relationship between the parties that has restored due to the aforementioned settlement initiated at the behest of well-meaning mediators. It is further pointed out by both sides that the continuation of the impugned criminal proceedings would amount to miscarriage of justice and it amounts to wastage of time and public money and the impugned proceedings may be quashed accordingly.

6. Considering the fact that the entire disputes between the petitioner and the 2nd respondent arose out of monetary transactions between them and as the same has been settled amicably and as the offence has essentially arisen out of such private personal disputes between the parties, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the case *Gian Singh v. State of Punjab* reported in 2013 (1)

SCC (Cri) 160 = (2012) 10 SCC 303 could be appropriately and befittingly applied to the facts of this case. Accordingly, it is ordered in the interest of justice that the impugned criminal proceedings initiated against the petitioner on the basis of Anx.I private criminal compliant, which has now led to the pendency of C.C.No. 1176/2013 on the file of the Judicial First Class Magistrate's Court-II, Perinthalmanna and all further proceedings arising therefrom shall stand quashed. The petitioner will produce certified copy of this judgment before the court below concerned.

With these observations and directions, the CrI.M.C. stands finally disposed of.

sd/+

Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge