

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

Crl.MC.No. 3247 of 2015

**CC 2814/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD
CRIME NO. 1262/2014 OF GURUVAYOOR POLICE STATION, TRISSUR**
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PETITIONER(S)/ACCUSED:

**MUHAMMED SHAREEF, AGED 43 YEARS,
S/O HAMEED, AYINIKKAL HOSE, VADANAPPALLI P.O.,
THRISSUR-680 614.**

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT(S)/STATE AND COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
GURUVAYOOR POLICE STATION, (CRIEM NO.1262/2014),
GURUVAYOOR, THRISSUR DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. MUHAMMED DASTHAHEER, AGED 40,
S/O K.V.USMAN, KOCHANCHERY HOUSE, THAMARAYOOR P.O.,
GURUVAYOOR.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R2 BY ADV. SRI.R.KRISHNAKUMAR (CHERTHALA)**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
03-06-2015 ALONG WITH CRL.MC. 3250/2015 & CRL.MC. 3255/2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 3247 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: A TRUE COPY OF THE FINAL REPORT IN CRIME NO.1262/2014 OF
GURUVAYOOR POLICE STATION DATED 7.11.2014.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C.Nos.3247, 3250 & 3255 of 2015

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Dated this the 3rd day of June, 2015

O R D E R

The petitioner in Crl.M.C.No.3247/2015 is the sole accused in Crime No.1262/2012 of Guruvayoor Police Station, registered for offence punishable under Sec.420 of the IPC. The Police, after investigation submitted the impugned Anx.A-1 final report/charge sheet in the above said crime, which led to the pendency of C.C.No.2814/2014 on the file of the Judicial First Class Magistrate's Court, Chavakkad. The gist of the prosecution case is that the petitioner informed the 2nd respondent (defacto complainant) that the petitioner is having a company at Selam by name, "Ayinikkal Steel India", and the said company is earning huge profit and that he is expanding the said company for which four crore rupees is needed and if the 2nd respondent takes a share of the company, he would be made as one of the directors of the company and will get an amount of Rs.40,000/- per month and that the share of the company will worth Rs.35 lakhs. That based on the said insistence

of the petitioner, the 2nd respondent had taken a share of the company paying Rs. 35 lakhs on different dates and within six months thereafter, the company closed. That even after receipt of the said amount, the 2nd respondent was not made a director in the petitioner's company nor was his money returned back by the petitioner till date and thereby, he committed the above said offence of cheating.

2. The petitioners in Crl.M.C.No.3250/2015 are accused 1 and 2 in the impugned Anx.A-1 Crime No.567/2014 of Medical College Police Station, Kozhikode city, registered for offences under Secs. 420, 406 read with Sec.34 of the I.P.C. The brief of the prosecution case is that while the 2nd respondent was working at Dubai, he had met the 1st petitioner through his friend, the 2nd petitioner, and that they informed that the 1st petitioner is having a company at Selam called "Ayinikkal Steel India" and that the said company is earning huge profit and for expanding the company, an amount of Rs.5.56 crores is needed and that if the 2nd respondent takes a share in the company, he would be made one of the directors of the company and will get an amount of Rs.40,000/- per month and thus the petitioners received an amount of Rs.22.5 lakhs

from the defacto complainant on various dates. That even after the receipt of the said amount, the 2nd respondent was not made a director nor was his money returned back by the petitioner till date and thereby the petitioners (accused) committed the above said offence.

3. The petitioner in Crl.M.C.No.3255/2015 is the sole accused in the impugned Crime No.1263/2014 of Guruvayoor Police Station, registered for offence under Sec.420 of the I.P.C. The Police, after investigation submitted the impugned Anx.A-1 final report/ charge sheet in the above said crime, which led to the pendency of C.C.No.2536/2014 on the file of the Judicial First Class Magistrate's Court, Chavakkad. The gist of the prosecution case is that while the 2nd respondent was working in Qatar, he met the petitioner through his friend and the petitioner informed that he is having a company at Selam called "Ayinikkal Steel India" and the said company is making huge profit and that if the 2nd respondent takes a share of the company, he would be made one of the directors and will get an amount of Rs.40,000/- per month and that share of the company will worth Rs.35 lakhs. That the 2nd respondent accordingly had taken a share of the company paying Rs. 35 lakhs on different dates

within December 2012 to the petitioner and even after receipt of the said amount, the 2nd respondent is not made a director in the company nor was his money returned back till date and thereby the petitioner committed the above said offence.

4. During the pendency of these criminal proceedings, the petitioner/petitioners concerned in these cases and the respective defacto complainants concerned have mutually agreed to resolve all the disputes through settlement as borne out by the respective affidavits sworn to by defacto complainants concerned in each of these cases, wherein it is stated that the respective defacto complainants have no objection for the quashment of the impugned criminal proceedings and that the entire disputes, which arose out of monetary transactions between the parties, have been settled and that the prayer for quashment could be considered. It is in the light of these aspects that the petitioners have sought the prayer for quashment of the impugned criminal proceedings by filing the instant Crl.M.Cs.

5. Having heard all the parties concerned and on examining the totality of the facts and circumstances of this cases and on examining the affidavits filed by the respective defacto

complainants, this Court of the considered opinion that the prayer for quashment of the impugned criminal proceedings could be allowed. Accordingly, these Crl.M.Cs are disposed of as follows:

- i. It is ordered in Crl.M.C.No.3247/2015 that the impugned Anx. A1 final report/charge sheet filed in the impugned Crime No. 1262/2014 of Guruvayoor Police Station, which led to the pendency of C.C.No.2814/2014 on the file of the Judicial First Class Magistrate's Court, Chavakkad and all further proceedings arising therefrom pending against the petitioner stand quashed.
- ii. In Crl.M.C.No.3250/2015 it is ordered that the impugned Anx.A-1 FIR in Crime No.567/2014 of the Medical College Police Station, Kozhikode city, and all further proceedings arising therefrom pending against the petitioners stand quashed.
- iii. In Crl.M.C.No.3255/2015 it is ordered that the impugned Anx. A-1 final report/charge sheet filed in Crime No.1263/2014 of Guruvayoor Police Station, which has led to the pendency of C.C.No.2536/2014 on the file of the Judicial First Class Magistrate's Court, Chavakkad and all further proceedings arising therefrom pending against the petitioner stand quashed.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge