

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

Crl.MC.No. 3526 of 2015 ()

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CC.NO. 459/2008 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
KARUNAGAPPALLY
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PETITIONER/ACCUSED :

**THANKACHAN THARAKAN
S/O.MATHAI TARAkan, KIZHAKKEVEETIL HOUSE
PADINJATTAKARA MURI, THEVALAKKARA VILLAGE
KARUNAGAPPALLY, KOLLAM.**

**BY ADVS.SRI.PRATHEESH P.
SMT.S.SEETHA
SMT.NIMA JACOB**

RESPONDENT/STATE :

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA AT ERNAKULAM.**
- 2. GANESHANKUTTY,
PRANEZHATHU VADAKKATHIL, PUTHUKKAD MURI, CHAVARA
KARUNAGAPPALLY, KOLLAM DISTRICT-690 518.**

R1 BY PUBLIC PROSECUTOR SRI. R. GITHESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...2/-

Crl.MC.No. 3526 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE 1 : THE COPY OF COMPLAINT IN CC.NO.459/2008.

**ANNEXURE 2 : A TRUE COPT OF THE LETTER ISSUED BY THE BRANCH
MANAGER, STATE BANK OF INDIA, RAMANKULANGARA
BRANCH.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C No.3526 of 2015

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Dated this the 28th day of July, 2015

O R D E R

The prayer in this Crl.M.C is as follows:

“... to quash Anx.1 complaint and all proceedings in C.C No.459/2008 on the file of JFMC, Karunagappally in the ends of justice.”

2. This court had passed an interim order 8.7.2015, inter alia directing the registry to get a report from the Judicial First Class Magistrate Court, Karunagappally as to the present stage of C.C No.459/2008 etc and the said order dated 8.7.2015 is quoted below for easy reference.

“Issue notice before admission to R2 by speed post returnable within ten days. The Public Prosecutor takes notice before admission to R1–State of Kerala.

2. The case projected by the petitioner is that on the basis of Annexure.2 certificate dt. 02-06-2015 issued by the Branch Manager of the State Bank of India, Ramankulangara Branch (1829), Thirumullavaram P.O, Ramankulangara Branch, Kollam, the Savings Bank Account bearing No.10384376437 maintained in that branch was closed on 03-08-2013 and that cheques bearing in no series SB 00/339 ranging from 0730161 to 0730175 was also been issued in that account and that the account holder in respect of that account is one Smt.Alice Mary, Kizhakke Veedu, Padinjarekkara, Thevalakkara, Kollam district and that therefore the cheque in question which is subject matter of this criminal complaint for offence under Section 138 of the N.I.Act, is not in any manner connected with the petitioner accused Sri.Thankachan Tharakan, in that therefore the impugned criminal proceedings is quashed.

3. Registry to get a report from the Judicial First Class Magistrate Court, Karunagappally as to the present stage of C.C.No.459/2008 within a week's time.”

3. Now the learned Judicial Magistrate has submitted a report dated 21.07.2015 to the registry of this Court, pursuant to the aforesaid directions. It is inter alia stated in the said report that the petitioner herein (accused) had filed C.M.P No.4693/2015 before that court with a certificate issued from the State Bank of India, Ramankulagara Branch stating that account No.10384376437 is that of one Smt. Alice Mary, Kizhakke Veedu, Padinjarekkara, Thevalakkara, Kollam and that he requested to summon the original register from SBI, Ramankulangara Branch to prove that the cheque in dispute is not drawn on the account maintained by him. Further it is stated that on 13.7.2015, the learned Magistrate heard the learned counsel for the petitioner and the learned Public Prosecutor and the case is posted for passing orders in the said C.M.P on 24.7.2015. Today it is submitted by the learned counsel for the petitioner that the court below has not passed any orders keeping in view of the pendency of this Crl.M.C before this Court. Accordingly, in the facts and circumstances of the case, it is ordered in the interest of justice that the Judicial First Class Magistrate Court, Karunagappally, after adverting to the contentions on both sides and the merits of the matter, will pass considered order on the prayer made in

C.M.P No. 4693/15 filed before the court below by the petitioner herein. This may be done without much further delay. With these observations and directions the Crl.M.C stands finally disposed of.

sd/-

sab

ALEXANDER THOMAS, JUDGE