

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

Crl.MC.No. 2638 of 2014

S.C.NO.293 OF 2013 OF THE ADDITIONAL SESSIONS COURT-V, KOTTAYAM

PETITIONER(S)/3RD ACCUSED :

**MAMU, AGED 61 YEARS,
S/O.KUNJUMHAMMED HAJI, KODAMPATTIL VEETIL,
KUNNAMANGALAM VILLAGE, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU**

RESPONDENT(S)/COMPLAINANT :

**STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1:** ORIGINAL OF THE SALE AGREEMENT DATED 24-07-2007 EXECUTED BETWEEN THE PETITIONER AND REJI DATED 24-07-2007.
- ANNEXURE A2:** COPY OF THE LETTER ISSUED BY THE SREERAM TRANSPORT FINANCE COMPANY LIMITED SHOWING THAT THE 4TH ACCUSED HAS EXECUTED A HYPOTHECATION AGREEMENT DATED 24-08-2007.
- ANNEXURE A3:** COPY OF THE CHEQUE DRAWN ON U.T.I BANK LIMITED DATED 24-08-2007.
- ANNEXURE A4:** COPY OF THE RELEVANT PAGES OF THE BANK PASS BOOK OF THE PETITIONER.
- ANNEXURE A5:** CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.550 OF 2007 OF CHANGANACHERRY POLICE STATION DATED 13-09-2007.
- ANNEXURE A6:** CERTIFIED COPY OF THE FINAL REPORT FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE, CHANGANACHERRY IN CRIME NO.550 OF 2007 OF CHANGANACHERRY POLICE STATION DATED 30-09-2012.
- ANNEXURE A7:** CERTIFIED COPY OF THE SALE AGREEMENT ENTERED BETWEEN 4TH ACCUSED AND THE ABOVE SAID SUKKUR DATED 24.08.2007.
- ANNEXURE A8:** CERTIFIED COPY OF THE MAHAZAR SHOWING THE SEIZURE OF REGISTER.
- ANNEXURE A9:** CERTIFIED COPY OF THE OF KYCHIT SHOWING THE RELEASE OF REGISTER TO THE BRANCH MANAGER BY THE SUPERINTENDENT OF POLICE, NARCOTIC CELL, KOTTAYAM.
- ANNEXURE A10:** CERTIFIED COPY OF THE PETITION FILED BY REJI, THE 4TH ACCUSED DATED 23.08.2014.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

B. KEMAL PASHA, J.

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Crl.M.C. No.2638 of 2014 E
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Dated this the 23rd day of November, 2015

ORDER

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Heard learned counsel for the petitioner and learned Public Prosecutor.

2. According to the learned counsel for the petitioner, there are no materials to implicate him in SC No.293/2013. It is a fact that a lorry was seized while 10115 litres of spirit was being transported by it. As on the date of seizure, it seems that the petitioner was the registered owner of the said lorry.

3. According to the petitioner, on 24.07.2007, he had sold the lorry to the 4th accused for consideration and had obtained part of consideration also. According to the petitioner, the 4th accused transferred the vehicle to one Shukkur. The investigating officer has a different version with regard to the same. According to the investigating

officer, the so-called transfer of the lorry was only a camouflage made by the petitioner in collusion with Reji, the 4th accused. Whatever it is, this Court at this stage, cannot go into the intrinsic particulars of the evidence collected by the investigating officer. If as a matter of fact, the petitioner has got such a contention and if the same can be born out from the records, the petitioner can bring those aspects to the notice of the court below at the stage of Section 227 Cr.P.C. It has been submitted that so far, the charges have not been framed in the matter.

With liberty to the petitioner to move the court below under Section 227 Cr.P.C., this CrI.M.C. is closed. In case of an application under Section 227 Cr.P.C. by the petitioner, the court below shall consider the same on merits and dispose it of, expeditiously.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/23/11

// True Copy //

PA to Judge