

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

Crl.MC.No. 2900 of 2013

CC 304/2012 OF CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE

PETITIONER/ACCUSED NO.3:-:

**K N GOPALAKRISHNAN, AGED 67 YEARS,
S/O.NARAYANAPILLAI, SMARANA, PUTHUKALAVATTOM,
ELAMAKKARA P.O., ERNAKULAM.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN**

RESPONDENTS/STATE/COMPLAINANT:-:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031,
(CRIME NO.480/2011 OF KASABA POLICE STATION,
KOZHIKODE DISTRICT,
NOW PENDING AS CC.NO.304/12 ON THE FILE
OF CHIEF JUDICIAL MAGISTRATE COURT,
KOZHIKODE).**
- 2. T.M.MOHANA CHANDRAN,
S/O.LATE RAMACHANDRAN, NEDUNGADI, CHANDIK,
CHAKIARMADAM LANE, CHALAPPURAM, KOZHIKODE - 673 002.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R2 BY ADV. SRI.P.VENUGOPAL (1086/92)**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 14-12-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 2900 of 2013

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE I. TRUE COPY OF THE FINAL REPORT IN CRIME NO.480/2011 OF KASABA
POLICE STATION, KOZHIKODE.**

**ANNEXURE II. TRUE COPY OF THE PARTNERSHIP DEED EXECUTED BETWEEN
ACCUSED NO.1 & 2 AS EARLY AS 19.04.2005.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

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Crl.M.C. No. 2900 of 2013

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Dated this the 14th day of December, 2015

O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent.

2. The petitioner is the 3rd accused in C.C.No.304/2012 of the Chief Judicial Magistrate's Court, Kozhikode, which has arisen from Crime No.480/2011 of the Kasaba Police Station, Kozhikode, for the offences punishable under Sections 406 and 420 read with Section 34 IPC.

3. This is a case, in which, allegedly, the accused committed criminal breach of trust and cheated and defrauded the de facto complainant and taken away an amount of ₹7 lakhs from him. It seems that the matter stands unnecessarily stayed. The contentions resorted

to by the petitioner, who is the 3rd accused are matters which have to be considered by the court below. According to the petitioner, his name was not even mentioned by the de facto complainant in the First Information Statement. At this stage, this Court cannot go into the intrinsic particulars of the evidence collected by the Investigating Officer and weigh the evidence. The petitioner can bring the present contentions to the notice of the court below at the stage of Section 239 Cr.P.C. The court below shall not insist for the personal appearance of the petitioner till the stage of Section 239 Cr.P.C. In such case, the court below shall consider the said aspects and pass appropriate orders in accordance with law.

With the said liberty to the petitioner, this Crl.M.C is closed.

Sd/-

B.KEMAL PASHA, JUDGE

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