

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

Cr1.MC.No. 4562 of 2015 ()

CC 2066/2014 of JUDICIAL FIRST CLASS MAGISTRATE'S COURT,
CHAVAKKAD

CRIME NO. 991/2014 OF GURUVAYUR POLICE STATION, TRISSUR

PETITIONERS :

1. P.K.GABREAL, AGED 60 YEARS,
S/O. KURIACKU,
RESIDING AT PULIKKOTTIL MAMMAYI PARAMBIL VEED,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

2. P.K.KURIAN, AGED 75 YEARS,
S/O. THOMA, PANANGATT VEED, THAIKKAD,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

3. P.A.RAMADAS, AGED 60 YEARS,
S/O. APPUKUTTAN, PULINCHAN VEED, MANATHALA,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

4. KOCHU MATHEW, AGED 60 YEARS,
S/O. JOSEPH, CHOWALLORE VEED, THAIKKAD,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

5. K.A.LOWRENCE, AGED 66 YEARS,
S/O.FRANCIS, MANDUMPAL VEED, CHOWALLORE,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

6. V.A.THOMAS, AGED 60 YEARS,
S/O. ANTONY, VAZHAPPILLY VEED, THAIKKAD,
CHAVAKKAD TALUK, THRISSUR DISTRICT.

BY ADV. SRI.RAJIT

Cr1.MC.No. 4562 of 2015 ()

RESPONDENT:

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SMT.SAREENA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
13-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

DSV/27/10/15

Cr1.MC.No. 4562 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A- COPY OF THE FIR REGISTERED BY THE GURUVAYUR
POLICE AS CRIME NO. 991/2014 FOR THE OFFENCE UNDER SEC. 3 AND
SEC 17 OF THE KERALA MONEY LENDERS ACT.

ANNEXURE B- COPY OF THE FINAL REPORT FILED BY THE GURUVAYUR
POLICE BEFORE THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S
COURT, CHAVAKKAD.

ANNEXURE C- COPY OF THE MEMORANDUM OF THE ASSOCIATION AND
ARTICLES OF ASSOCIATION OF THE CHOWALLORPADY KURIES AND LOANS
PRIVATE LIMITED.

ANNEXURE D- COPY OF THE CERTIFICATE OF INCORPORATE ISSUED BY
REGISTRAR OF COMPANY IN RESPECT OF CHOWALLORPADY KURIES AND
LOAS PRIVATE LIMITED.

ANNEXURE E- COPY OF THE MONEY LENDING LICENSE ISSUED BY THE
INSPECTING ASSISTING COMMISSIONER COMMERCIAL TAXES DTD. 3-6-
2014.

ANNEXURE F- COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE
ASSISTANT LABOUR IN RESPECT OF CHOWALLORPADY KURIES AND LOANS
PRIVATE LIMITED.

RESPONDENT'S ANNEXURES:

NIL

// True Copy //

P.A. To Judge

DSV/27/10/15

B. KEMAL PASHA, J.

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Crl.M.C. No.4562 of 2015 B
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Dated this the 13th day of October, 2015

ORDER

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What is under challenge is the final report in CC No.2066/2014 of the Judicial First Class Magistrate's Court, Chavakkad, which has arisen from Crime No.991/2014 of Guruvayur Police Station for the offence punishable under Section 3 read with Section 17 of the Kerala Money Lenders Act. The allegation against the petitioners is that they have conducted money lending without licence and authorisation.

2. The petitioners are the Directors and the Managing Director of a company named '*Chovvallorpady Kuries and Loans Private Limited*'. The petitioners have produced Annexure-E, copy of the money lending licence

dated 03.06.2014, which was later renewed on 30.06.2015. Annexure-E clearly evidences that the said company has money lending licence. Matters being so, there is no meaning in alleging that the petitioners, who are the Directors of the company, have conducted illegal money lending.

3. Another infirmity pointed out by the learned counsel for the petitioners is that the company is not made an accused. The company is a legal person. When the company was allegedly engaged in money lending business without licence, the company ought to have been made an accused in the matter. Even otherwise, the company has got money lending licence. From all these, it is evident that the prosecution as such is bad in law and, therefore, Annexure-B final report and all further proceedings in CC No.2066/2014 of the Judicial First Class Magistrate's Court, Chavakkad, which has arisen from Crime No.991/2014 of Guruvayur Police Station, can be quashed.

In the result, this CrI.M.C. is allowed and Annexure-B final report and all further proceedings in CC No.2066/2014 of the Judicial First Class Magistrate's Court, Chavakkad, which has arisen from Crime No.991/2014 of Guruvayur Police Station are quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/13/10

// True Copy //

PA to Judge