

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

Crl.MC.No. 4726 of 2015 (D)

**CRA 271/2012 OF VTH ADDITIONAL SESSIONS COURT, ERNAKULAM &
CC NO.692/2009 of J.M.F.C.-I, ERNAKULAM**

PETITIONER:

**SUNIL K.R, AGED 48 YEARS,
K. DAMODARAN NAIR, KRISHNASREE,
BHAVANS SCHOOL ROAD, GIRINAGAR SOUTH,
COCHIN – 682 020.**

**BY ADVS. SRI. K.B.PRADEEP
SRI. MANU RAMACHANDRAN
SMT. B.L.RENJU**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE STATE PUBLIC PROSECUTOR,
HIGHCOURT OF KERALA – 682 031.**
- 2. THE CITY POLICE COMMISSIONER, COCHIN CITY,
REPRESENTED BY THE STATE PUBLIC PROSECUTOR,
HIGHCOURT OF KERALA – 682 020.**
- 3. MANI. T. MUNDATHU, AGED 56 YEARS,
S/O, THOMAS, MANAGING DIRECTOR,
MONY PLUS CHITS & FINANCE CO. P. LTD,
32/1612, 1ST FLOOR, PALLISERRY ROAD, PALARIVATTOM,
ERNAKULAM – 682 020.**

R1 & R2 BY PUBLIC PROSECUTOR SMT. SAREENA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04-09-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4726 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: **THE TRUE COPY OF THE JUDGMENT DATED 23.12.2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ERNAKULAM IN C.C. No. 692/2009.**

ANNEXURE A2: **THE TRUE COPY OF THE JUDGMENT DATED 31.12.2012 OF VTH ADDITIONAL SESSIONS COURT, ERNAKULAM IN CRIMINAL APPEAL NO. 271/2012.**

RESPONDENT(S)' EXHIBITS **- NIL**

//TRUE COPY//

P.A. TO JUDGE

WW

B. KEMAL PASHA, J.

Crl. M.C. No. 4726 of 2015

Dated this the 4th day of September, 2015

ORDER

Heard the learned counsel for the petitioner. Petitioner is the complainant in a case for the offence punishable under Section 138 of the NI Act.

2. The 3rd respondent herein is the accused in the case. The case which was taken on file as C.C. No.692/2009 ended in a conviction and sentence. Challenging the conviction and sentence passed by the trial court, the 3rd respondent herein filed Criminal Appeal No. 217/2012 before the Vth Additional Sessions Court, Ernakulam. The learned Vth Additional Sessions Judge, Ernakulam has concurred with the conviction and sentence passed by the trial court and dismissed the appeal.

3. The present complaint of the petitioner is that the 3rd respondent is evading process and is not available for execution of the sentence. As per Criminal rules of practice, it is for the 1st appellate court to obtain the presence of the appellant/accused, for the execution of sentence. The Vth Additional Sessions Judge is directed to take immediate necessary steps to take coercive steps against the 3rd respondent to obtain his custody and to execute the sentence. In case his presence cannot be procured, all coercive steps have to be taken.

With the said observations, this Crl. M.C is closed.

Sd/-
B. KEMAL PASHA,
JUDGE