

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

Crl.Rev.Pet.No. 1218 of 2004 (B)

AGAINST THE ORDER IN CC 266/2000 of J.M.F.C., VAIKOM DATED
29-03-2004.

REVISION PETITIONER(S)/PETITIONERS/ACCUSED:

1. MOHAN DAS, KARTHIKA, T.C.27/1304,
VANCHIYOOR, THIRUVANANTHAPURAM-35.

2. C. SAVITHRI, PROPRIETOR,
VIGIL COMMUNICATIONS, P.M.G. JUNCTION,
VIKAS BHAVAN,
THIRUVANANTHAPURAM.

BY ADV. SRI.GOPAKUMAR R.THALIYAL

RESPONDENT(S)/COUNTER PETITIONER-STATE & DE FACTO
COMPLAINANT:

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

2. RAJAN BABU, PROPRIETOR, TITSY PRODUCTIONS,
SWAPNA HOUSE, PADINJAREKKARA, NADUVILA VILLAGE,
VAIKOM.

R2 BY ADV. SRI.DILIP MOHAN

R1 BY PUBLIC PROSECUTOR SRI. JIBU P. THOMAS

THIS CRIMINAL REVISION PETITION HAVING BEEN
FINALLY HEARD ON 18-09-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K. HARILAL, J.

Crl.R.P. No.1218 of 2004

Dated this the 18th day of September, 2015

ORDER

The petitioners herein are the accused in C.M.P. No.4361 of 2003 in C.C. No.266 of 2000 on the files of the Judicial First Class Magistrate's Court, Vaikom. A private complaint has been filed by the 2nd respondent against the petitioners before the court below alleging the offences punishable under Secs.420, 468 and 34 of the Indian Penal Code. The learned Magistrate forwarded the complaint to the police under Sec.156 (3) of the Code of Criminal Procedure, the police filed a Final Report and thereupon cognizance was taken by the court below. Earlier, the 2nd respondent filed another private complaint, C.C.No.268 of 1996, for the same cause of action against the 1st petitioner alleging

the offence under Sec.138 of the Negotiable Instruments Act and the same was also dismissed by the court below. These petitioners have filed C.M.P. No.4361/03 in C.C. No.266/2000 seeking discharge of the petitioners from the offence alleged against them. But the learned Magistrate dismissed the said petition by the impugned order. The legality and correctness of the impugned order is challenged in this revision petition.

2. Heard the learned counsel for the petitioners.

3. Going by the impugned order under challenge, it is seen that the case of the complainant is that the 2nd accused savithri with a common intention of cheating the complainant. The 1st accused signed the cheque leaf of the 2nd accused as if he was the Proprietor of Vigil Communications. As rightly pointed out by the court below, the 2nd accused was not aware of the transaction between the complainant and the 1st accused. The question to be decided in evidence only whether the complainant sold the right

of advertisement to the Vigil Communications and towards the consideration, the 1st accused issued the cheque as if he was the Proprietor. The short point that arises for consideration in a discharge petition is whether the complainant has made out a prima facie case. Going by the averments in the complaint, it is seen that the averments prima facie constitute the offence alleged against him. Whether the trial could end in conviction or not is not a matter to be considered at this stage. In the above view of the matter, I find that the learned Magistrate has considered the point involved in this petition filed under Sec.239 of the Cr.P.C. in its correct perspective and dismissed the petition. There is no legal infirmity or jurisdictional error in the impugned order under challenge. Hence this revision petition is dismissed.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge