

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

Crl.MC.No. 4327 of 2014 ()

**-----
C.C. NO.823/2010 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-VI,
ERNAKULAM.**

.....

PETITIONER/ACCUSED:

**KUMAR. K.V., S/O.VASUDEVAN NAIR,
AGED 48 YEARS, T.C. NO.55/218, KRISHNA,
KAIMANAM, PAPPANAMCODU,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.VINOD J.DEV,
SRI.PRAMOD J.DEV.**

RESPONDENT/COMPLAINANT:

- 1. M/S.GEOJITH COMMODITIES LTD.,
OPP. SMV HIGH SCHOOL, M.G. ROAD,
THIRUVANANTHAPURAM-695 007,
REPRESENTED BY IT'S AUTHORISED
REPRESENTATIVE MR.G.HARILAL.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**R1 BY ADVS. SRI.T.MADHU,
SRI.P.O.THOMAS.
R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- | | |
|--------------------|--|
| ANNEXURE-A1 | COPY OF COMPLIANT IN C.C.818/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ERNAKULAM. |
| ANNEXURE-A2 | COPY OF JOINT TRIAL PETITION IN CC.823/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-VI, ERNAKULAM. |
| ANNEXURE-A3 | COPY OF ORDER DATED 13-05-2014 IN CRL.M.P.16/2014 IN C.C.823/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-VI, ERNAKULAM. |

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

PA. TO JUDGE

rs.

ALEXANDER THOMAS, J.

=====

Crl.M.C No.4327 of 2014

=====

Dated this the 20th day of July, 2015

O R D E R

The prayer in this Crl.M.C is as follows:

“.... may be pleased to call for the records leading to the passing of Annexure-A3 and quash the same.”

2. On going through the impugned Anx.A3 order, it is seen that the accused No.1 in C.C No.818/2010 is not an accused in C.C No.823/2010. Even as per the averments in the complaint in C.C No.823/2010, the cheque has been issued by the accused for discharge of his own liability and as per the averments in the complaint in C.C No. 818/2010, A2 therein (who is the accused in C.C No.823/2010) had issued the cheque for the discharge of the liability of his wife who is accused No.1 in the said case. The accused No.2 in C.C No. 818/2010 is not a signatory to the cheque. Moreover, both the complaints are based on two different transactions and the court below was of the considered opinion that the evidence to be adduced in these cases are also different. That the documents in two cases have to be marked separately and for

all practical purposes the merit of the two cases have to be evaluated separately. It is pointed out that both the cases are involving the offence u/s 138 of the Negotiable Instruments Act. The other common factor is that the complainant in both the case are one and the same and the accused in C.C No.823/2010 is also one of the accused in the other case. For that reason alone it cannot be contended that complaint filed under two different sets of facts and circumstances have to be tried at one trial. In view of these aspects that the court below has refused the plea of the petitioner for joint trial. On going through the materials on record and as well as on a perusal of the impugned order, this Court is of the considered opinion that the court below has not committed any grave illegality in passing the impugned order. This court is of the considered opinion that the extra ordinary discretion conferred u/s 482 of Cr.P.C need not be exercised in the facts and circumstances of this case.

Accordingly this Crl.M.C stands dismissed.

sd/-

sab

ALEXANDER THOMAS, JUDGE

