

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

Crl.MC.No. 4044 of 2012 ()

AGAINST THE JUDGMENT IN CC 490/2011 of J.M.F.C.-I MUVATTUPUZHA

PETITIONERS/ACCUSED 1 AND 2:

1. P.E.JAFFAR,
PALATHINGAL HOUSE, KAVUMKARA KARA,
VELOORKUNNAM VILLAGE, MUVATTUPUZHA,
ERNAKULAM DISTRICT.

2. ABDUL REHIMAN,
MALEKUDIYIL HOUSE, VELOORKUNNAM VILLAGE, MUVATTUPUZHA
ERNAKULAM DISTRICT.

BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.S.SREEDEV

RESPONDENTS/COMPLAINANT:

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

*2. ERNAKULAM RURAL DISTRICT CO-OPERATIVE BANK LTD.
MUVATTUPUZHA- 686 661
REPRESENTED BY ITS BRANCH MANAGER.

*ADDRESS OF R2 CORRECTED AND SUBSTITUTED AS:

ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD.
MUVATTUPUZHA RURAL BRANCH,
MUVATTUPUZHA, ERNAKULAM
REPRESENTED BY THE BRANCH MANAGER

AS PER ORDER DATED 09.01.2013 IN CRL.M.A. 140/2013

R2 - BY ADV. SMT.I.SHEELA DEVI, SC, ERNAKULAM DIST.CO.OP.BANK
LTD.

R1 - BY PUBLIC PROSECUTOR SRI. ROY THOMAS

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
22-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-A1 TRUE COPY OF THE COMPLAINT FILED BY THE R2 AS
CMP.490/2011 ON THE FILES OF THE JFCM COURT, MUVATTUPUZHA.

ANNEXURE-A2 TRUE COPY OF THE FIR DATED 12.5.2011 IN CRIME
NO.420/2011.

ANNEXURE-A3 CERTIFIED COPY OF THE FINAL REPORT IN C.C.NO.490/2011 ON
THE FILES OF THE JFCM COURT, MUVATTUPUZHA.

ANNEXURE-A4 TRUE COPY OF THE CERTIFICATE DATED 6.6.2012 ISSUED
BY R2.

/TRUE COPY/

P.S. TO JUDGE

c1

K. RAMAKRISHNAN, J.

.....
Crl.M.C.No.4044 of 2012
.....

Dated this the 22nd day of January, 2015.

O R D E R

The above petition was filed by the accused in C.C.No.490/2011 on the file of the Judicial First Class Magistrate Court, Muvattupuzha to quash the proceedings under section 482 of the Code of Criminal Procedure.

2. It was alleged in the petition that the first petitioner had availed a loan from the second respondent Bank by mortgaging his property and subsequently it was sold to the second petitioner without intimating the bank. They filed a criminal case as Crime No.420/2011 of Muvattupuzha police station as Annexure-A2 but after investigation Annexure-A3 final report was filed alleging that the first petitioner had committed the offence punishable under sections 420 and 406 of the Indian Penal Code read with section 34 of the Indian Penal Code. Now the loan has been closed and the bank has no intention to proceed with the case and so he prayed for quashing the proceedings.

3. When the petition came up for hearing today before this Court, when it was pointed out that the offences under

sections 406 and 420 of the Indian Penal Code are compoundable offences and if the matter has been settled between the parties, they can move the court for compounding with leave of the court under section 320(2) of the Code, the counsel for the second respondent submitted that they have no objection in filing the compounding application before the court below. The counsel for the petitioners also submitted that, that can be recorded and the matter can be disposed of leaving open the right of the parties to move the court for filing compounding application under section 320 of the Code. The above submissions of both the counsel are recorded and the petition is disposed of accordingly. If the petitioners file an application for compounding and if the complainant appears before the court and expresses their willingness to compound the case as the entire amount has been paid, then the court below is directed to consider and dispose of the application in accordance with law.

With the above directions and observations, this petition is disposed of.

Sd/-

K. RAMAKRISHNAN, JUDGE.

cl

/true copy/

P.S to Judge

