

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

Crl.MC.No. 4599 of 2013

C.C.NO.45/12 OF THE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR

PETITIONER(S)/ACCUSED NO. 1 TO 5 IN C.C.NO.45/12 OF CHIEF JUDICIAL
MAGISTRATE, TRISSUR IN CRIME NO.1474/11 OF TRISSUR EAST P.S.:

1. SAJEEV MENON P., AGED 42 YEARS,
S/O.SARASWATHY AMMA, PANIKKAVETIL HOUSE,
KURUMAL DESOM, VELOOR VILLAGE, THALAPPILLY TALUK,
THRISSUR.
2. MUSTHAFA V.M., AGED 39 YEARS,
S/O.MUHAMMED BASHEER, VALIYAKATH HOUSE, THAYYAR P.O.,
THRISSUR.
3. BASHEER N.K., AGED 32 YEARS,
S/O.KUNJU MUHAMMED, NALAKATH HOUSE,
PATHRAMANGALAM VILLAGE, PATHRAMANGALAM P.O.,
THALAPPILLY TALUK, THRISSUR.
4. RAMESH K.B., AGED 38 YEARS,
S/O.BHASKARAN NAIR, KARYATT HOUSE, PARAPPURU DESOM,
CHALA VILLAGE, THALAPPILLY TALUK, THRISSUR.
5. RAMACHANDRAN, AGED 51 YEARS,
S/O.AMMINI AMMA, NARANGA VALAPPIL HOUSE, VELOOR DESOM,
VELOOR VILLAGE, THALAPPILLY TALUK, THRISSUR.

BY ADV. SRI.PRAVEEN K. JOY

RESPONDENT(S)/STATE & COMPLAINANT IN C.C.NO.45/12 OF CHIEF JUDICIAL
MAGISTRATE, TRISSUR :

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE,
THRISSUR EAST POLICE STATION.

CrI.MC.No. 4599 of 2013

**2. SATHYAN, AGED 43 YEARS,
S/O.APPU, VELOOR HOUSE, KURUMAL DESOM,
VELOOR VILLAGE, THALAPPILLY TALUK, THRISSUR, PIN-680 320.**

**R1 BY PUBLIC PROSECUTOR SMT.MAYA
R2 BY ADVS. SRI.V.BINOY RAM
SRI.K.SIBI JOSEPH**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 03-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE 1:** TRUE PHOTOCOPY OF THE COMPLAINT DATED 16-08-2011 IN S.T.NO.771/11 ON THE FILES OF CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR.
- ANNEXURE 2:** TRUE PHOTOCOPY OF THE LAWYER NOTICE DATED 30-6-2011 ISSUED TO 2ND RESPONDENT.
- ANNEXURE 3:** TRUE PHOTOCOPY OF THE ACKNOWLEDGMENT CARD DATED 08-07-2011 OF 2ND RESPONDENT.
- ANNEXURE 4:** TRUE PHOTOCOPY OF THE LAWYER NOTICE ISSUED TO 2ND RESPONDENT DATED 11-11-2011.
- ANNEXURE 5:** TRUE COPY OF THE F.I.R. 1299/11 DATED 10-12-2011 OF GURUVAYOOR POLICE STATION.
- ANNEXURE 6:** TRUE CERTIFIED COPY OF THE FINAL REPORT/CHARGE SHEET IN C.C.45/12 BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR IN CRIME 1474/11 OF THRISSUR EAST POLICE STATION.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B. KEMAL PASHA, J.

.....
Crl.M.C. No.4599 of 2013 E
.....

Dated this the 3rd day of November, 2015

ORDER

~ ~ ~ ~ ~

Petitioners are the accused in CC No.45/2012 of the Chief Judicial Magistrate's Court, Thrissur for the offences punishable under Sections 406, 417, 420, 465, 467 and 468 read with Section 34 IPC.

2. The allegation against the petitioners is that on 04.12.2010, the de facto complainant had borrowed an amount of ₹4 lakhs and at that time, he had issued two signed blank cheques by way of security for the said amounts, along with a blank signed stamp paper and a blank signed white paper. It is alleged that the petitioners have altered the said documents, forged the same as documents and made use of the same as genuine.

3. For the amounts due to the 2nd petitioner from the de facto complainant, who is the 2nd respondent herein, a

case was filed as CC No.771/2011 before the Chief Judicial Magistrate's Court, Thrissur for the offence under Section 138 of the NI Act, as the cheque allegedly issued in discharge of the said liability was dishonoured. It was after the said case, that a private complaint was filed by the de facto complainant and got it referred to the police under Section 156(3) Cr.P.C. Consequently, the crime was registered and thereafter, the final report was filed.

4. There is clear admission in the private complaint as well as the final report that the cheques were issued as security for the amounts borrowed by the 2nd respondent from the 2nd petitioner. The other documents allegedly handed over have not been made use of so far. Matters being so, the offences alleged against the petitioners are not legally sustainable. No fruitful purpose would be served in proceeding with the matter further. Matters being so, all further proceedings in CC No.45/2012 of the Chief Judicial Magistrate's Court, Thrissur, can be quashed.

In the result, this Crl.M.C. is allowed and Annexure-6 final report and all further proceedings against the petitioners in CC No.45/2012 of the Chief Judicial Magistrate's Court, Thrissur, are quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/03/11

// True Copy //

PA to Judge