

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Cr1.MC.No. 5759 of 2015 ()

CC 3850/2014 of JUDICIAL FIRST CLASS MAGISTRATE'S COURT,
KOTHAMANGALAM
CRIME NO. 438/2013 OF KOTHAMANGALAM POLICE STATION

PETITIONER:

SHAJI, S/O.JOSEPH, AGED 52 YEARS,
PADANILAM HOUSE, VADYAMBADI PO,
KOLENCHERY, ERNAKULAM DISTRICT.

BY ADV. SRI.P.A.MARTIN ROY

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KOTHAMANGALAM THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.

2. MR. SHINJU SCARIA, AGED 34 YEARS,
S/O.SCARIA, MANNARATHARA HOUSE, PARACHALAPADI BHAGAM,
VARAPETTY VILLAGE, KOZHIPPILLY KARA, KOZHIPPILLY PO.

3. NIXON, AGED 35 YEARS,
S/O.MATHEW, NADUKUDIYIL, KOTHAMANGALAM KARA,
KUTHUKUZHAY PO, KOTHAMANGALAM VILLAGE.

R1 BY PUBLIC PROSECUTOR SMT.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 5759 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE I: CERTIFIED COPY OF THE PETITION DT. 20.04.2013.

ANNEXURE II: CERTIFIED COPY OF THE FIR DT. 20.04.2013 IN CRIME NO. 438/2013 OF KOTHAMANGALAM POLICE STATION.

ANNEXURE III: COPY OF THE PETITION AND SAMPLE SIGNATURE FILED BEFORE THE SUB INSPECTOR OF POLICE, KOTHAMANGALAM DT. 12.03.2014.

ANNEXURE IV: COPY OF THE PETITION FILED BEFORE THE HONOURABLE HOME MINISTER OF KERALA.

ANNEXURE V: CERTIFIED COPY OF THE CHARGE SHEET IN CC.NO.3850/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KOTHAMANGALAM DT. 27.06.2014.

RESPONDENTS' ANNEXURES :

NIL

// True Copy //

P.A. To Judge

DSV/17/10/15

B.KEMAL PASHA, J.

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Crl.M.C. No. 5759 of 2015

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Dated this the 15th day of October, 2015

ORDER

Petitioner is the 2nd accused in C.C.No.3850 of 2014 of the Judicial First Class Magistrate's Court, Kothamangalam, which has arisen from Crime No.438 of 2013 of Kothamangalam Police Station for the offences punishable under Sections 406 and 420 IPC read with Section 34 IPC. According to the petitioner, he was not in any way involved in the incident allegedly occurred in the case and that he had no money transactions with the defacto complainant. It is also the case of the petitioner that he had never engaged the other accused for collecting money from anybody.

2. While dealing with the matter under Section 482 Cr.P.C., this Court cannot go into the merits of the evidence collected by the investigating officer at present. It is a warrant trial. It has come out that the charges have not been framed by the court

below.

3. The petitioner can approach the court below with an application seeking discharge at the stage of Section 239 Cr.P.C. In case of such an application, the court below shall consider it and dispose it of in accordance with law at the stage of Sections 239 and 240 Cr.P.C. Further, the court below shall dispose of the application that may be filed by the petitioner seeking bail on the date of filing itself, provided, advance notice is served on the Assistant Public Prosecutor.

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

Sd/-

**B.KEMAL PASHA
JUDGE**

DSV/15/10/15

// True Copy //

P.A. To Judge