

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

CrI.MC.No. 4601 of 2014 ()

CC.NO. 1276/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, IRINJALAKUDA

PETITIONER/SOLE ACCUSED IN CC NO. 1276/2012 :

**Y. HARIKUMAR, AGED 40,
S/O. LATE YESODHARAN, MANAGING DIRECTOR
BEN TOURS AND TRAVELS (P) LTD.,
RESIDING AT DWARAKA, 156, THEKKUMBHAGAM
TRIPUNITHURA.**

**BY ADVS.SRI.VARGHESE C. KURIAKOSE
SRI.K.H.ASHARAF**

RESPONDENTS/STATE & COMPLAINANT IN CC NO. 1276/2012 :

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

**2. SIJU JOSE
AGED 42, S/O. JOSE,
THOMMANA HOUSE, OORAKAM DESOM
PULLUR VILLAGE, MUKUNDAPURAM TALUK
THRISSUR DISTRICT - 680 302.**

**R1 BY PUBLIC PROSECUTOR SMT. P. MAYA
R2 BY ADV. SRI.RAJESH CHAKYAT**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 28-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE 1 : CERTIFIED COPY OF THE COMPLAINT.

**ANNEXURE 2 PHOTOCOPY OF THE CHEQUE NO. 032006 FOR RS. 1,00,000/-
DRAWN ON THE STATE BANK OF TRAVANCORE, VYTTILA
BRANCH, KOCHI.**

ANNEXURE 3 PHOTOCOPY OF THE LAWYER NOTICE DATED 22.12.2011.

**ANNEXURE 4 CERTIFIED COPY OF THE ORDER DATED 6.6.2012 TAKING
COGNIZANCE OF THE OFFENCE.**

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

B. KEMAL PASHA, J.

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CRL.M.C. No. 4601 of 2014
.....

Dated this the 28th day of October, 2015

ORDER

Alleging an offence under Section 138 of the N.I.Act by a Company, the Managing Director of the Company alone is proceeded against, as the sole accused in C.C.No.1276/2012 of the Judicial First Class Magistrate's Court, Irinjalkkuda, through a private complaint. The Company is not made a party in the case. The Company shall be an accused as per section 141(1) of the NI. Act. That omission itself cuts the root of the case. Matters being so, all further proceedings in C.C.No.1276/12 of the Judicial First Class Magistrate's Court, Irinjalakkuda, are liable to be quashed.

In the result, this Crl.M.C. is allowed and all further

proceedings in C.C.No.1276/12 of the Judicial First Class
Magistrate's Court, Irinjalakkuda, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge