

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

Cr1.MC.No. 5961 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN CC 683/2013 of J.M.F.C.-I,KOCHI

PETITIONER(S)/ACCUSED:

IRISHA BABU, W/O.BABU K.A.
KAVALAM THARA HOUSE, ADIMURI LANE
PALARIVATTOM P.O.KOCHI -682 025.

BY ADVS.SRIP.S.SUJETH
SMT.M.R.REENA

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN 682 031.

2. SEBASTIAN K.C.
S/O.FRANCIS, AGED 37 YEARS, KUTTIKKATT HOUSE
THERUVIPPARAMBIL, ELAMAKKARA P.O, KOCHI - 682 026.

R1 BY PUBLIC PROSECUTOR SMT.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-09-2015 ALONG WITH CRL.MISC. CASE NO.5962, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

Cr1.MC.No. 5961 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNX.A1 - TRUE COPY OF THE PETITION FILED BEFORE THE JFCM(I) UNDER
SEC.73 OF THE CODE OF CRIMINAL PROCEDURE DATED 29.07.2015

ANNX.A2 - TRUE COPY OF THE STATEMENT IN CROSS EXAMINATION OF THE DE-
FACTO COMPLAINANT DATED 14.05.2015

ANNX.A3 - TRUE COPY OF THE ORDER PASSED BY THE JFCM (I) KOCHI IN CMP
NO.1095/2015 IN CC NO.683/2013 DATED 05.08.2015.

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

vgs

B. KEMAL PASHA, J.

.....
CRL. M.C. Nos.5961 and 5962 of 2015
.....

Dated this the 15th day of September, 2015

ORDER

The petitioner in both these Crl.M.Cs. is the accused in C.C.No.683 of 2013 as well as C.C.No.684 of 2013 of the Judicial First Class Magistrate's Court-I, Kochi, registered for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. According to the petitioner, she wanted to get the cheques involved in the case examined at the Forensic Science Laboratory for noting down the age of the ink relating to the signatures, as well as the other contents of the cheque. She has filed CMP Nos.1095 of 2015 and 1095 of 2015-A before the court below, for the said purpose, under Section 73

of the Indian Evidence Act. The court below has chosen to dismiss both the petitions.

3. On hearing the learned counsel for the petitioner and on a perusal of the records, it has come out that the complainant has no case that the cheques were filled in by the petitioner herein in her own handwriting in his presence. His only case is that signatures were affixed by the petitioner in the filled in cheque leaves in his presence. When the complainant has got such a case only, the examination with regard to the age of the ink is of no use at all. According to the petitioner, even the complainant has admitted that a sizable amount covered by the cheques were received by him from the petitioner. Those matters have to be considered by the court below during the disposal of the matter. Presently, the impugned orders do not call for any interference at all. Hence, these CrI.M.Cs. are only to be dismissed.

In the result, these CrI.M.C. are dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge

