

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

Crl.MC.No. 6110 of 2015 ()

CC. NO.756/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ERATTUPETTA

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PETITIONER/ACCUSED:

**K.C. THOMAS @ PRAKASH, AGED 47 YEARS,
S/O.LATE CHACKO, KAYAPLACKAL HOUSE,
CHENNAD KARA, POONJAR THEKKEKARA VILLAGE,
ERATTUPETTA, KOTTAYAM.**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN,
SRI.M.D.SASIKUMARAN,
SRI.GEORGE MATHEW,
SRI.SUNIL KUMAR A.G.,
SRI.DIPU JAMES.**

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
THROUGH THE S.I. OF POLICE,
ERATTUPETTA POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A1 :** TRUE COPY OF FIRST INFORMATION REPORT
DATED 23-12-2004 IN CR.NO.430 OF 2004 OF ERATTUPETTA
POLICE STATION ALONG WITH CMP NO.6129 OF 2004.
- ANNEXURE A2 :** TRUE COPY OF FINAL REPORT DATED 30-10-2007.
- ANNEXURE A3 :** TRUE COPY OF JUDGMENT DATED 11-12-2009 IN
CC NO.671 OF 2007 JUDICIAL FIRST CLASS MAGISTRATE'S
COURT, ERATTUPETTA.
- ANNEXURE A4 :** TRUE COPY OF JUDGMENT DATED 28-02-2013 IN
CRL.APPEAL NO.7 OF 2010 OF ADDITIONAL SESSIONS COURT,
KOTTAYAM.
- ANNEXURE A5 :** TRUE COPY OF MEDICAL CERTIFICATE DATED 18-04-2015.
- ANNEXURE A6 :** TRUE COPY OF DEATH CERTIFICATE DATED 31-03-2011.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B.KEMAL PASHA, J.

.....
CRL. M.C. No.6110 of 2015
.....

Dated this the 25th day of September, 2015

ORDER

The 2nd accused in C.C.No.671 of 2007 of the Judicial First Class Magistrate's Court, Erattupetta, which has arisen from Crime No.430/2004 of the Erattupetta Police Station registered for the offences punishable under Sections 419, 420, 468 and 471 read with Section 34 of the Indian Penal Code, is the petitioner herein.

2. All the other accused are facing trial. The petitioner was absconding. After trial, the trial court convicted and sentenced accused Nos. 1 to 3 and 7 for the offences punishable under Sections 419, 465 and 468 IPC read with Section 34 IPC, through Annexure A3 judgment. The said accused persons were acquitted. Conviction and

sentence were challenged before the Sessions Court, Kottayam through Crl.Appeal No.7/2010. The Sessions Court, after considering the evidence available, has chosen to allow the appeal and acquitted A1, A3 and A7 also. It is the case of the petitioner that the petitioner is seriously laid up and he cannot move and that no purpose would be served even if the trial is conducted. Presently, the case against the petitioner is split up and refiled as C.C.No.756/2009.

3. On going through the records, this Court is of the view that the case against the petitioner cannot be quashed, merely based on the judgments passed by the trial court as well as the appellate court. At the same time, at the time of framing of charges at the stage of Section 239 or 240 Cr.P.C., the petitioner can bring to the notice of the court below with regard to the merits or otherwise of the matter, so that the court below can pass appropriate orders.

4. Considering the fact that the petitioner cannot

move, the court below shall dispense with his personal appearance before the court below till the stage of Section 239 Cr.P.C.

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

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge