

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

Crl.MC.No. 6172 of 2015

**CC 542/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, VADAKKANCHERRY
CC 810/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT., PATTAMBI
CRIME NO. 438/2015 OF CHALISSERY POLICE STATION , PALAKKAD**

PETITIONER(S)/ACCUSED NO.4:

**MARAKKAR, AGED 48 YEARS,
S/O.BAPPUTTY MARAKKAR, ARINJIPARAMBIL VEEDU,
CHAZHIYATTIRI, PERINGODE P.O., PATTAMBI TALUK,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT(S)/DEFACTO COMPLAINANT & STATE:

- 1. PURUSHOTHAMAN, AGED 46 YEARS,
S/O.GOPALAN NAIR, RUGMA NIVAS,
SHORNUR, PALAKKAD.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R2 BY PUBLIC PROSECUTOR SMT.SAREENA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONERS' ANNEXURES

ANNEXURE A: COPY OF THE FINAL REPORT IN CC.542/15 PENDING ON THE FILES OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS, WADAKKANCHERY.

ANNEXURE B: COPY OF THE CRL.MP.297/15 PREFERRED BY THE PETITIONER THROUGH HIS POWER OF ATTORNEY HOLDER BEFORE THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS PATTAMBI UNDER SECTION 138 OF THE N.I. ACT AGAINST THE 2ND ACCUSED IN THE PRESENT CASE.

ANNEXURE C: COPY OF THE COMPLAINT UNDR SECTION 138 OF THE N.I. ACT PREFERRED BY THE PETITION HEREIN THROUGH HIS POWER OF ATTORNEY HOLDER AGAINST THE 2ND ACCUSED IN THE PRESENT CASE IN RELATION TO THE TRANSACTION WHICH IS NOW PENDING AS CC.810/15 BEFORE THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS PATTAMBI.

RESPONDENTS' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

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Crl.M.C. No.6172 of 2015
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Dated this the 15th day of September, 2015

ORDER

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Petitioner is the 4th accused in CC.542/2015 pending before the Judicial First Class Magistrate's Court, Wadakkanchery, which has arisen from Crime No.13/2015 of the Cheruthuruthy Police Station. Petitioner is one of the share holders of a company which was engaged in chitty business. The 1st accused is its Chairman, 2nd accused is the Managing Director and 3rd accused is the Director of the company. Admittedly, accused Nos.4 to 8 are the share holders in the company. Final report has been filed against the accused alleging offences punishable under Sections 406 and 420 read with Section 34 IPC as the company has cheated and defrauded various subscribers of the chitty by not paying the chitty amount.

2. When the petitioner is only a share holder, he

cannot have any day to day administration of the company. The persons, who were in charge of the company, are arraigned as accused Nos.1 to 3 in the case. The petitioner cannot be found fault with in taking shares in a company. In such case, the proceedings in CC.542/2015 of the Judicial First Class Magistrate's Court, Wadakkanchery as against the petitioner are liable to be quashed.

In the result, this CrI.M.C. is allowed and all further proceedings in CC.542/2015 of the Judicial First Class Magistrate's Court, Wadakkanchery as against the petitioner are quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/15/09

// True Copy //

PA to Judge