

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

Cri.MC.No. 6436 of 2015 ()

CC 1865/2014 of JFCM-III, KOTTAYAM
CRIME NO. 944/2014 OF MANARCAUD POLICE STATION, KOTTAYAM

PETITIONER(S)/ACCUSED:

RAJESH JOSE
S/O.JOSE MANI, MALIAKKEL HOUSE, KOZHA KARA
KOZHA TOWN, KURAVILANGADU VILLAGE, KOTTAYAM.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT(S)/STATE AND DE-FACTO COMPLAINANTS:

1. STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER
MANARCAUD POLICE STATION
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA-682 031.
2. LEELAMA THANKAPPAN
W/O.THANKAPPAN, W/O.THANKAPPAN, HARSHALAYAM
KUZHIYAKUNNU BHAGAM, MANARCAUD KARA, MANARCAUD VILLAGE
KOTTAYAM-686 019.
3. DEEPA ROY
W/O.ROYMON, VARIKKATTU HOUSE, KAVUMPADY BHAGAM
MANARCAUD KARA, MANARCAUD VILLAGE, KOTTAYAM-686 019.
4. ANYAMMA JOHN
W/O.DANIEL, BHAGAVATHI MADAM HOUSE
MELATHUKUNNU BHAGAM, MANARCAUD KARA, MANARCAUD VILLAGE
KOTTAYAM-686 019.
5. RAJESH
S/O.KUTTAPPAN, POTTAMPILPARA, NEAR ST.MARY'S CHURCH
KATTAMPAK KARA, NEEZHOR VILLAGE, KOTTAYAM-686 612.
6. RAJU
S/O.CHACKO, VALA HOUSE, S.I. PADY BHAGAM
KATTAMPAK KARA, NEEZHOR VILLAGE, KOTTAYAM-686 612.
7. OMANA
W/O.SUBHASH, CHELAMOOTIL PADNIJHARETHIL HOUSE
VELLUTHURUTHY KARA, PANACHIKKADU VILLAGE
KOTTAYAM-686 011.

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8. LALU P.SEBASTIAN
S/O.SEBASTIAN, MACHUKADU HOUSE, POOTTUCHIRA BHAGAM
THALAPPADI KARA, PUTHUPALLY VILLAGE, KOTTAYAM-686 011.
9. AJIMON V.S
S/O.SIVAN, VANIYAPPURACKEL HOUSE, VETTIKKADU BHAGAM
THIRUVARPPU KARA, THIRUVARPPU VILLAGE
KOTTAYAM-686 033.
10. JAYANTHI DEVI
PULLIKKAPARAMBIL HOUSE, KUMAROMKODU BHAGAM
PUTHUPALLY KARA, PUTHUPALLY VILLAGE
KOTTAYAM DISTRICT-686 011.
11. SUBHASH, CHELAMOOTIL PADINJHARETHIL HOUSE,
VELLUTHURUTHY BHAGAM, VELLUTHURUTHI KARA
PANACHIKKADU VILLAGE, KOTTAYAM DISTRICT -686011
12. SANOOP S NAIR,
THOPPIL HOUSE, AREEPARAMBU KARA
MANARCAD VILLAGE, KOTTAYAM DISTRICT-686019

R BY PUBLIC PROSECUTOR SMT.SAREENA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A- TRUE COPY OF THE FIR NO.944 OF 2014 DATED 07.09.2014 REGISTERED BY MANARCADU POLICE STATION.

ANNEXURE B- A CERTIFIED COPY OF THE FINAL REPORT/CHARGE SHEET DATED 30.10.2014 WHICH IS NUMBERED AS 1024.

ANNEXURE C- TRUE COPY OF THE MONEY LENDING LICENCE NO.32050469171 ISSUED BY INSPECTING ASSISTANT COMMISSIONER, IAC OFFICE, KOTTAYAM DATED 19.09.2014.

ANNEXURE D- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.2 DATED 11.03.2015.

ANNEXURE E- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.3 DATED 11.03.2015.

ANNEXURE F- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.4 DATED 11.03.2015.

ANNEXURE G- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.5 DATED 11.03.2015.

ANNEXURE H- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.6 DATED 11.03.2015.

ANNEXURE I- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.7 DATED 11.03.2015.

ANNEXURE J- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.8 DATED 11.03.2015.

ANNEXURE K- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.9 DATED 11.03.2015.

ANNEXURE L- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.10 DATED 11.03.2015.

ANNEXURE M- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.11 DATED 11.03.2015.

ANNEXURE N- THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY RESPONDENT NO.12 DATED 11.03.2015.

RESPONDENT(S)' EXHIBITS : NIL

// True Copy //

PA to Judge

B. KEMAL PASHA, J.

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Crl.M.C. No.6436 of 2015 G
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Dated this the 16th day of October, 2015

ORDER

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Petitioner is the accused in CC No.1865/2014 of the Judicial First Class Magistrate's Court-III, Kottayam, which has arisen from Crime No.944/2014 of Manarcad Police Station, for the offence punishable under Section 3 read with Section 17 of the Kerala Money Lenders Act, 1958. The allegation against the petitioner is that he has committed illegal money lending and has obtained huge amounts of interest from the members of the public to whom he had lent money and has obtained promissory notes, blank signed stamp papers, blank signed papers on which revenue stamps are affixed, etc. A search was conducted and some documents were seized.

2. It seems that the offence alleged is the one under Section 17 of the Kerala Money Lenders Act, 1958. In order to invite an offence under Section 17 of the said Act, such a person should carry on the business without a licence, or in violation of

the conditions of the licence or otherwise than in conformity with the terms and conditions of the licence. Admittedly, the petitioner has got a money lending licence. The petitioner has produced Annexure-C money lending licence in his favour.

3. When the petitioner is having a money lending licence, the first part of Section 17 goes. With regard to the next part, there should be violation of the conditions of the licence or his acts should be otherwise than in conformity with the terms and conditions contained in the licence. There is no allegation that he has violated any of the conditions of Annexure-C licence. There is nothing to show that he was carrying on business otherwise than in conformity with the terms and conditions contained in Annexure-C licence.

4. Over and above all these, the matter has been amicably settled between the petitioner and his customers, who are arrayed as respondents 2 to 12. They are cited as charge witnesses by the investigating officer. Respondents 2 to 12 have filed separate affidavits affirming that the matter has been amicably settled and they have no complaints against the

petitioner. Even otherwise, the offence under Section 17 of the Act alleged in this case is not legally sustainable. Matters being so, all further proceedings in CC No.1865/2014 of the Judicial First Class Magistrate's Court-III, Kottayam, which has arisen from Crime No.944/2014 of Manarcad Police Station, are liable to be quashed.

In the result, this Crl.M.C. is allowed and all further proceedings in CC No.1865/2014 of the Judicial First Class Magistrate's Court-III, Kottayam, which has arisen from Crime No.944/2014 of Manarcad Police Station, are quashed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/16/10

// True Copy //

PA to Judge