

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

Cr1.MC.No. 5329 of 2014 ()

CMP NO.133 OF 2014 IN S.T.NO.3/2014 OF JUDICIAL FIRST CLASS
MAGISTRATE'S COURT-III, KOLLAM

PETITIONER/PETITIONER/ACCUSED :

GOPAKUMAR, AGED 33 YEARS,
S/O.GOPI, LOGIC MULTIMEDIA, II FLOOR,
BISHOP JEROME NAGAR, KOLLAM,
RESIDING AT MALIYATTU HOUSE, ADINADU SOUTH,
KATTIL KADAVU P O, KULASEKHARAPURAM, KARUNAGAPALLY,
KOLLAM.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT/RESPONDENTS/COMPLAINANT AND STATE :

1. MALLIKA, AGED 47 YEARS,
D/O. B RAJAMMA, GEETHANJALI, PATTATHANAM EAST,
VIKAS NAGAR 130, KOLLAM-691 001.

2. STATE OF KERALA,
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682 031.

R1 BY ADV. SRI.AJAYA KUMAR. G
R2 BY PUBLIC PROSECUTOR SMT.MAYA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
27-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

DSV/28/10/15

Crl.MC.No. 5329 of 2014 ()

APPENDIX

PETITIONER'S ANNEXURES :

A1 COPY OF THE ORDER IN CMP NO.133 OF 2014 IN S.T.NO.3 OF
2014 DATED 13.08.2014 PASSED BY THE COURT OF THE JUDICIAL
FIRST CLASS MAGISTRATE'S COURT-III, KOLLAM.

RESPONDENTS' ANNEXURES :

NIL

// True Copy //

P.A. To Judge

DSV/28/10/15

B.KEMAL PASHA, J.

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Crl.M.C. No. 5329 of 2014

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Dated this the 27th day of October, 2015

ORDER

The petitioner is the accused in S.T.No.3 of 2014 of the Judicial First Class Magistrate's Court-III, Kollam, for the offences punishable under Section 138 of the Negotiable Instrumets Act.

2. In the said case, the complainant was examined as PW1. According to the petitioner, during the cross-examination, he could not put some questions relating to the source from which the amount was raised by the complainant. Therefore, he

filed an application as C.M.P.No.133 of 2014 for recalling PW1 for further cross-examination, to put those questions. Through Annexure-A1 order, the court below has dismissed the said C.M.P.

3. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent.

4. The 1st respondent has pointed out that the amount was legally raised by the complainant and the complainant can well prove his source. In such case, there is absolutely nothing wrong in giving one more opportunity to the petitioner to subject PW1 to cross-examination, only on the point regarding the source, from which he raised the amount. To that limited extent, the petitioner can be permitted to cross-examine PW1 further.

In the result, this Crl.M.C. is allowed. The court below is directed to recall PW1 for giving one more opportunity to the petitioner to put questions in cross-examination, relating to the source, from which the complainant has raised the amount. The

petitioner is not permitted to make any further cross-examination on any other point. The court below shall dispose of the matter as expeditiously.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/27/10/15

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P.A. To Judge