

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Crl.MC.No. 6684 of 2015

CRIME NO. 1670/2015 OF KANNUR TOWN POLICE STATION, KANNUR

PETITIONER(S)/ACCUSED NO.1,3,6,8,9,10,12,14,15,16,18,19,23 & 28:

1. PARAYIL VISWANATHAN,
S/O.APPU MESTHRI, PARAYIL HOUSE, P.O PAPPINISSERY,
KANNUR DISTRICT.
2. ILAKKILAVALAPPIL KIZHAKKEVEETIL PRABHAKARAN,
S/O.SANKARAN NAIR, SREEPRABHA, NEAR KADALAYI KSHETHRAM,
CHIRAKKAL, KANNUR 11.
3. PUTHIYANDI SUBAIR,
S/O.MUHAMMED KUNHI, NHALIVAAYAL, P.O KANNUR CITY,
KANNUR DISTRICT.
4. KADAVINTAVIDA KUMMITTA VEETIL MAKHSOOD
S/O.ABDUL MAJEED, SAYIRA MANZIL, P.O THANA,
KANNUR DISTRICT.
5. PAKKARKATH FARIYAL,
S/O.HAMEED, GOKHALE ROAD, P.O KANNUR,
KANNUR DISTRICT.
6. KANNOOR KARATHI NIYAD,
S/O.MOIDEEN HAJI, P.O CHIRAKKAL, KANNUR 11.
7. PUTHAMVEETIL SURESH,
S/O.NARAYANAN, PUTHAMVEETIL HOUSE, P.O CHIRAKKAL,
KANNUR 11.
8. PARAYIL SUDHA,
D/O.APPU MESTHRI, PARAYIL HOUSE,
P.O PAPPINISSERI, KANNUR DISTRICT.
9. PARAYIL VIDYADHARAN,
S/O.APPU MESTHRI, PARAYIL HOUSE, P.O PAPPINISSERI,
KANNUR DISTRICT.

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10. M.MANSURIDHEEN,
S/O.MUHAMMED MOIDEEN, THILICHERI VAYAL,
P.O PALLIKUNNU, KANNUR DISTRICT.
11. KANNOOKKARATHI SAJITHA
D/O.MOIDEEN HAJI, ANAYIDUKKU, P.O THANA,
KANNUR DISTRICT.
12. MUNDACHALI PARAPRATH RAMYA,
D/O.RAMACHANDRAN, SHARON, P.O CHOVA,
KANNUR DISTRICT.
13. KADAVAN MAHAMMOOD
S/O.UMMERKUTTY HAJI, MARIYAM MANZIL, P.O CHIRAKKAL
KANNUR 11.
14. KAKKOTH RAMANI,
D/O.BALAKRISHNAN, P.O CHIRAKKAL, KANNUR 11.

BY ADVS.SRI.K.C.SANTHOSHKUMAR
SMT.K.K.CHANDRALEKHA
SRI.C.KRISHNAN(KANNUR)
SMT.K.S.SUDHA
SMT.C.LEENA

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 031.
2. THE SUB INSPECTOR OF POLICE,
KANNUR TOWN POLICE STATION,
KANNUR DISTRICT. 676 001.
3. KANNUR MUNICIPALITY,
KANNUR 670 001, REPRESENTED BY THE SECRETARY.

R1 & 2 BY PUBLIC PROSECUTOR SMT.SAREENA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE A. COPY OF THE PROVISIONAL ORDER DATED 26.11.09.

**ANNEXURE B. COPY OF THE REQUEST FILED BY THE PETITIONERS BEFORE THE
3RD RESPONDENT.**

**ANNEXURE C. COPY OF THE INTIMATION DATED 31.5.12 ISSUED BY THE 3RD
RESPONDENT.**

**ANNEXURE D. COPY OF THE ORDER DATED 27.11.12 ISSUED BY THE TRIBUNAL
FOR LOCAL SELF GOVERNMENT INSTITUTION,
THIRUVANANTHAPURAM.**

**ANNEXURE E. COPY OF THE APPLICATION DATED 12.2.13 FILED BY THE FIRST
PETITIONER.**

ANNEXURE F. COPY OF THE FIR LODGED BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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Dated this the 29th day of October, 2015

ORDER

The petitioners are A1, A3, A6, A8, A9, A10, A12, A14, A15, A16, A18, A19, A23 and A28 in Crime No.1670 of 2015 of the Kannur Town Police Station, registered for the offences punishable under Section 420 IPC read with Section 34 IPC.

2. The crime was registered on the basis of a complaint preferred by the Secretary of the Kannur Municipality, who is the 3rd respondent herein. The allegation precisely is that after obtaining occupancy certificates in respect of some other rooms in a building, the petitioners have misused the same and by affixing the numbers of those rooms for which occupancy certificates were obtained, on some other portions in the ground floor which were meant for car parking area, thereby misusing the occupancy certificates.

3. At any stretch of imagination, an offence under Section 420 IPC cannot be invited, as the ingredients of the offence of cheating under Section 415 IPC are lacking. At the same time, it may invite other offences as well as violation of the provisions of the Municipalities Act and Rules.

4. It is made clear that an offence under Section 420 IPC will not lie in the matter. At the same time, the investigation cannot be stopped as it may invite other offences. There cannot be any hindrance on the part of the Investigating officer to proceed with the investigation for other offences, if any in the matter.

With the said observations, this Crl.M.C. is disposed of.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/29/10/15

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P.A. To Judge