

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

Cr1.MC.No. 6861 of 2015 ()

CC 88/2009 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

PETITIONER/DE FACTO COMPLAINANT:

K.NATARAJAN, 52B, JAWAHAR STREET,
RATHNAPURI, COIMBATORE - 641 027.

BY ADVS.SRI.VADAKARA V.V.N.MENON
SRI.N.S.GOPAKUMAR

RESPONDENT(S)/ACCUSED & STATE :

1. V.S.SUJITH, S/O.SREENIVASAN V.K.,
39/1284, VALAMBATH HOUSE,
KALATHIPARAMBIL ROAD, ERNAKULAM, KOCHI - 16.
2. LATHA SUJITH, W/O.V.S.SUJITH,
39/1284, VALAMBATH HOUSE, KALATHIPARAMBIL ROAD,
ERNAKULAM, KOCHI - 16.
3. STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R3 BY PUBLIC PROSECUTOR SMT.MAYA.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
24-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 6861 of 2015

APPENDIX

PETITIONER'S ANNEXURES :

A1 : COPY OF THE COMPLAINT NO.88/2009 DATED 5.9.2008
FILED BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT,
ERNAKULAM.

A2 : COPY OF THE ORDER DATED 17.12.2014 IN CALENDAR CASE
NO.88/09 PASSED BY the CHIEF JUDICIAL MAGISTRATE
COURT, ERNAKULAM.

RESPONDENTS' ANNEXURES : NIL

//TRUE COPY//

P.A TO JUDGE.

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B.KEMAL PASHA, J.

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Crl.M.C. No. 6861 of 2015

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Dated this the 24th day of November, 2015

ORDER

Heard the learned counsel for the petitioner.

2. The private complaint filed before the court below by the petitioner/complainant alleging an offence punishable under Section 420 read with Section 34 IPC has been dismissed by the court below through Annexure-A2 order.

3. Annexure-A2 order was passed by the court below as there was no representation for the complainant and as the complainant also was absent. It was dismissed on the ground that, even after repeated directions, steps were not taken.

4. According to the learned counsel for the petitioner, it is true that the complainant and the counsel happened to be absent on that day. At the same time, on

all the other earlier posting dates, the complainant used to be present before the court below. It is also pointed out that the steps taken earlier were there in the case bundle itself and therefore, the dismissal of the complaint has resulted in substantial miscarriage of justice.

5. On hearing the learned counsel for the petitioner, this Court is satisfied that the petitioner is entitled to get one more opportunity before the court below to proceed with the matter.

In the result, this Crl.M.C is allowed and Annexure – A2 order is quashed. The private complaint is restored and is remitted to the court below for fresh disposal in accordance with law by giving one more opportunity to the petitioner to proceed with the matter. In case, no steps are there, the petitioner shall take steps before the court below. The petitioner shall appear before the court below on 7th December, 2015.

Sd/-
B.KEMAL PASHA, JUDGE

