

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Crl.MC.No. 6873 of 2015 ()

CC 389/2012 of JUDICIAL FIRST CLASS MAGISTRATE COURT, VAIKOM

PETITIONER/1ST ACCUSED :

**JIJOMON.P.J., AGED 33 YEARS,
S/O.JOHN, RESIDING AT PULLANKUNNEL HOUSE,
KATTAMPAK P.O., NEEZHOOR, KOTTAYAM DISTRICT.**

**BY ADVS.SRI.S.SUBHASH CHAND
SRI.S.JAYAKRISHNAN**

RESPONDENT/STATE :

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.**

BY PUBLIC PROSECUTOR SMT. P. MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

Crl.MC.No. 6873 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE 1: COPY OF THE FIRST INFORMATION REPORT ALONG WITH FIRST INFORMATION STATEMENT DT 2/3/2011 IN CRIME NO. 133/2011 OF KADUTHURUTHY POLICE STATION.

ANNEXURE 2: COPY OF THE FINAL REPORT NO. 356/2012 DT 30/3/2012 FILED BY THE POLICE BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE CURT, VAIKOM.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

B. KEMAL PASHA, J.

.....
Crl.M.C. No.6873 of 2015
.....

Dated this the 2nd day of November, 2015

ORDER

~ ~ ~ ~ ~

Petitioner is the accused in CC No.389/2012 of the Judicial First Class Magistrate's Court, Vaikom, which has arisen from Crime No.133/2011 of Kaduthuruthy Police Station for the offences punishable under Sections 463, 465, 468, 471 and 420 IPC.

2. The allegation against the petitioner is that he has procured a forged marriage certificate for procuring Visa to Italy and he made use of the same as genuine, thereby committing cheating and forgery for the purpose of cheating. According to the learned counsel for the petitioner, the investigation has proved that the mischief was committed by one Thomas and his whereabouts could not be collected by the investigating officer and he has not been made an accused in the case. Unless and until the said Thomas is

made an accused, any of the offences cannot be attributed on the petitioner, it is argued. It is also argued that it was without the knowledge of the petitioner that such a document was forged and, therefore, Section 471 IPC cannot be invited.

3. All these matters are based on evidence. This Court, at this stage, cannot weigh the evidence and consider the intrinsic particulars of the evidence collected by the investigating officer in the matter. At the same time, these are grounds that can be urged before the court below for canvassing an acquittal.

4. The learned counsel for the petitioner has pointed out that as per the orders of this Court, subsequently, he could obtain a proper marriage certificate and by making use of the same, he has gone to Italy, where he is working now, along with his wife. The learned counsel for the petitioner seeks for exemption of the petitioner in the case before the court below.

5. As far as practicable, the court below shall grant exemption to the petitioner, and dispense with his personal appearance before the court below. The petitioner shall file an affidavit before the court below affirming that he will not challenge the identity. The presence of the petitioner shall be ordered by the court below, only on the posting dates on which his presence is absolutely required.

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

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/02/11

// True Copy //

PA to Judge