IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Crl.MC.No. 5749 of 2014

C.C.NO.866/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NEDUMKANDAM

PETITIONER(S)/ACCUSED :

BIJUMON P.R., AGED 34 YEARS,
ADVOCATE, S/O. RAGHAVAN NAIR, PATHALIL HOUSE,
RAMAKKALMEDU KARA, PARATHODU VILLAGE, IDUKKI DISTRICT.

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRA KRISHNAN

RESPONDENT(S)/STATE/INFORMANT :
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1. **STATE OF KERALA,**
   REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM-682 031 (CRIME NO. 1123/2013 OF
   NEDUMKANDAM POLICE STATION, IDUKKI DISTRICT).

2. **MARYKUTTY,**
   W/O.MATHAI, POTHANPARAMBIL HOUSE, THANNIMOODU,
   PARATHODU, NEDUMKANDAM, IDUKKI DISTRICT-686 602.

R1 BY PUBLIC PROSECUTOR SRI.SREEJITH.V.S
R2 BY ADVS. SRI.BIJU MARTIN
SRI.M.M.SALIM
SRI.D.M.NOWFAL

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Msd.

Crl.MC.No. 5749 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNEXURE I:	**COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.1123/13 OF NEDUMKANDAM POLICE STATION.**
ANNEXURE II:	**COPY OF THE FIRST INFORMATION STATEMENT IN CRIME NO.1123/13 OF NEDUMKANDAM POLICE STATION.**
ANNEXURE III:	**COPY OF THE ORDER IN CC NO. 176/2012 DISPOSED BY THE CONSUMER DISPUTE REDRESSAL FORUM, IDUKKI, DATED 31-01-2013.**
ANNEXURE IV:	**COPY OF THE ORDER IN S.T.NO. 58/2013 IN CC.NO. 176/2012 PASSED BY THE CONSUMER DISPUTE REDRESSAL FORUM, IDUKKI.**
ANNEXURE V:	**CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1123/2013 OF NEDUMKANDAM POLICE STATION.**
ANNEXURE VI:	**COPY OF THE RELEVANT PAGE OF THE VOTER'S LIST OF PATTAM COLONY SERVICE CO-OPERATIVE BANK.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B.KEMAL PASHA, J.
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Crl.M.C. No. 5749 of 2014
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Dated this the 20th day of January, 2015

ORDER

The petitioner, a practising lawyer, who is a member of Pattom Colony Service Co-operative Bank, had joined a financial scheme of the said Co-operative Bank, whereby the Bank had offered a loan of ₹72,000/- to those persons, who remit the first three monthly installments of the scheme. The petitioner remitted the said three installments and applied for the loan. All the papers were got signed from him as well as from the sureties.

2. Even after a long time, the loan was not disbursed. On enquiry, it was revealed that all the other persons, who had applied for loan in the scheme, were given the said loan, whereas the loan was denied to the petitioner, on account of severe political enmity, as the members of the Director Board were the sympathizers of a rival political party.

3. Aggrieved by the said attitude of the Bank, the petitioner had approached the Consumer Disputes Redressal Forum, Idukki through C.C.No.176 of 2012. The matter was hotly contested. Ultimately, the Consumer Disputes Redressal Forum, Idukki allowed the petition and the opposite parties were directed to provide loan of ₹72,000/- to the complainant as per the "Easy Cash Back Scheme" of the opposite party, if the complainant produces sureties for the same before the Bank. The cost was also ordered to be given to the petitioner.

4. Even after the said order, the Secretary of the Bank was adamant in not disbursing the loan and consequently, the petitioner had moved the Consumer Disputes Redressal Forum, Idukki again with a petition for contempt. When steps were initiated, the Secretary of the Bank appeared before the Consumer Disputes Redressal Forum, Idukki and agreed that the loan would be disbursed on the next day. On the next day, it is alleged that the petitioner along with the sureties went to the Bank. Even then, the loan was not disbursed.

5. According to the petitioner, with a view to escaping from the clutches of law and for forcing the petitioner to withdraw from the contempt proceedings pending as S.T.No.58 of 2013 in C.C.No.176 of 2012 before the Consumer Disputes Redressal Forum, Idukki, the petitioner has been falsely implicated in the present crime. The petitioner has come up under Section 482 Cr.P.C. for getting the proceedings against him in C.C.No.866 of 2013 of the Judicial First Class Magistrate's Court, Nedumkandam, quashed.

6. Heard the learned counsel for the petitioner, learned counsel for the defacto complainant and the learned Public Prosecutor.

7. It seems that Crime No.1123 of 2013 of the Nedumkandam Police Station was registered against the petitioner alleging offenes under Section 451, 354 and 506(i) IPC and Section 118(d) of the Kerala Police Act, based on the First Information Statement furnished by the 2nd respondent.

Her version is that on 07.11.2013 at 3.30 p.m., while she was sitting in her cabin and working at the Bank as Secretary, the petitioner trespassed into the cabin and uttered abusive words containing sexual remarks. It is further alleged that he had intimidated her by saying that she would be sent to jail. It seems that the investigating officer swiftly conducted investigation when the allegations were levelled against a practising lawyer and the investigating officer has chosen to file Annexure V Final Report by incorporating the offences under Sections 451, 354 A (1)(ii) and 506(i) IPC and Section 118(d) of the Kerala Police Act.

8. It seems that any of the offences noted above cannot be attracted to the facts and circumstances of the case. An offence under Section 451 IPC will not lie, as the petitioner being a member of the Bank has every right and authority to have an entry into the Bank. The 2nd respondent has no case that the petitioner had made any demand or request for sexual favours from her. Therefore, an offence under Section

354 A(1) (ii) also cannot be attracted. Regarding 506(i) IPC, the allegation is that the petitioner had intimidated her by telling her that she would be sent to jail. It is true that he had initiated proceedings against her for contempt and the proceedings are still pending. She was called by the Consumer Disputes Redressal Forum, Idukki on 06.11.2013 and she had appeared before that Authority. Willingly she submitted before the Consumer Disputes Redressal Forum, Idukki that the loan would be disbursed on the next day, provided the petitioner comes with sureties. Matters being so, there is every justification on the part of the petitioner in appearing at the Bank on 07.11.2013. She has not specifically stated in the First Information Statement that the petitioner came to the Bank without any sureties. Even when she has got a specific case that on earlier occasion, the petitioner had approached the Bank with sureties and the sureties were not acceptable to the Director Board of the Bank, it cannot be believed that the petitioner had

approached the Bank without sureties especially when the Consumer Disputes Redressal Forum, Idukki had ordered the petitioner to approach the Bank with sureties for obtaining the loan. It seems that she had an axe to grind against the petitioner. As far as the offence under Section 118(d) of the Kerala Police Act also, the offence cannot be attracted in this case.

9. A practising lawyer, is unfortunately dragged into an unnecessary case by imputing false allegations against him. It is evident that he has been trapped and implicated in a criminal case deliberately. Over and above all these, the allegations levelled against the petitioner do not constitute any of the offences noted in the Final Report. Matters being so, it is just and proper in the interest of justice to quash all further proceedings in Crime No.1123 of 2013 of the Nedumkandam Police Station as well as C.C.No.866 of 2013 of the Judicial First Class Magistrate's Court, Nedumkandam.

In the result, this Crl.M.C. is allowed and all further proceedings in Crime No.1123 of 2013 of the Nedumkandam Police Station as well as C.C.No.866 of 2013 of the Judicial First Class Magistrate's Court, Nedumkandam are hereby quashed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/20/1/15

// True Copy //

P.A. To Judge