

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

Crl.MC.No. 5949 of 2014

**ORDER DTD.15.7.2014 IN CMP.6447/2013 IN ST.4159/2009 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-III, THRISSUR**
.....

PETITIONER(S)/PETITIONER/ACCUSED:

**R. THULASI, AGED 41 YEARS,
W/O.V.TANILDAS, VELLANKALLUR HOUSE,
VANIYAN LANE, POONKUNNAM P.O.,
THRISSUR TALUK AND DISTRICT.**

BY ADV. SRI.K.A.SATHEESA BABU

RESPONDENT(S)/RESPONDENT/COMPLAINANT AND STATE:

**1. HUSSAIN P.A., AGED 55 YEARS,
S/O.P.M.ABDUL RAHMAN, PARIKUNNATH HOUSE,
CHANAPPETTA LINE, VADOOKKARA DESOM,
KOORKENCHERRY VILLAGE VADOOKKARA-698 105.**

**2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA ERNAKULAM-35.**

**R1 BY ADV. SRI. SAJI JOSEPH
R2 BY PUBLIC PROSECUTOR SMT.MAYA**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
09-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 5949 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNX.I - TRUE COPY OF COMPLAINT DATED 18-4-2009 IN S.T.4159/2009

**ANNX.II -TRUE COPY OF S.313 (CR.P.C) ADDITIONAL STATEMENT DATED 7-11-2013 IN
ST 4159/2009**

**ANNX.III - TRUE COPY OF THE PETITION DATED 7-11-2013 IN ST.4159/2009
(CMP.6447/2013)**

**ANNX.IV - CERTIFIED COPY OF THE ORDER DATED 15-7-2014 IN CMP 6447/2013 IN
ST.4159/2009 BY J.F.C.M. NO.III, THRISSUR.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
Crl.M.C. No.5949 of 2014
.....

Dated this the 9th day of December, 2015

ORDER

The petitioner is the accused in S.T.No.4159/2009 of the Judicial First Class Magistrate's Court-III, Thrissur, registered for the offence punishable under Section 138 of the N.I. Act. The first respondent herein is the complainant.

2. The case of the complainant is that in discharge of the liability of the petitioner to pay an amount of ₹6 lakhs to the complainant, the cheque in question was issued, which on presentation returned dishoured for insufficiency of funds.

3. After the evidence of the complainant, when the case stood posted for examination of the petitioner under Section 313 Cr.P.C., the petitioner preferred C.M.P.No.6447/2013 for sending the cheque for examination

by the hand writing expert. According to the petitioner, the complainant as PW1 had deposed in cross-examination that the entries in the cheque were filled in by the petitioner in her own hand writing.

4. The court below has found that the signature in the cheque has been clearly admitted and there is a slight contradiction in the contentions taken up by the petitioner relating to the circumstances in which the cheque was allegedly lost from the possession of the petitioner. It is a case wherein the signature of the petitioner in the cheque is admitted. The learned counsel for the petitioner has fairly admitted that no reply was issued to the demand notice issued under Section 138(b) of the N.I.Act. Considering the said circumstances, this Court is of the view that no fruitful purpose would be served even if it is shown that the hand writings in the cheque are not that of the petitioner. It would be an idle exercise to send the cheque for examination by the hand writing expert. Matters being so, this Crl.M.C. is

Crl.M.C. 5949 of 2014

-: 3 :-

devoid of merits, and is only to be dismissed, and I do so.

In the result, this Crl.M.C. is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge