

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

Crl.MC.No. 6153 of 2013 ()

CRIME NO. 296/2013 OF TANUR POLICE STATION , MALAPPURAM

PETITIONER/1st ACCUSED:

**ABDUL MUNEER
S/O.SAIDALAVI, PALLIPPATT THOOMBEN HOUSE
THALAKKADATHOOR P.O, TIRUR TALUK
MALAPPURAM DISTRICT.**

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENTS/ DEFACTO COMPLAINANT:

- 1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM 682 031.**
- 2. VAHEEDHA
W/O.SAIDALAVI, NELLIKAPARAMBIL HOUSE
KERALADEESWARAPURAM AMSOM DESOM
KERALADEESWARAPURAM P.O, PIN 676 307, TIRUR TALUK
MALAPPURAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH
R2 BY ADV. SRI.O.V.MANIPRASAD**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 14-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S ANNEXURES

ANNEXURE 1. COPY OF THE COMPLAINT DATED 30.04.13 FILED BY THE 2ND RESPONDENT HEREIN BEFORE THE SUPERINTENDENT OF POLICE MALAPPURAM.

ANNEXURE 2. COPY OF THE WRITTEN STATEMENT FILED BY THE 4TH RESPONDENT IN OS 260/2010 BEFORE THE MUNSIF COURT TIRUR DATED 03.04.2011.

ANNEXURE 3. COPY OF THE PLAINT IN OS 10/2010 BEFORE THE MUNSIF COURT, TIRUR DATED 10.01.2010.

ANNEXURE 4. COPY OF THE FIR IN CRIME NO.296/2013 OF TANUR POLICE, MALAPPURAM DISTRICT DATED 30.04.2013.

RESPONDENTS' ANNEXURES

ANNEXURE R2 (a) COPY OF THE I.A.NO.147/2010 IN OSNO.10/2010 OF THE MUNSIF COURT, TIRUR

ANNEXURE R2 (b) COPY OF THE ORDER OF INJUNCTION IN IA NO.147/2010 IN O.S.10/2010 OF THE MUNSIF COURT, TIRUR

ANNEXURE R2 (c) COPY OF THE PETITION DATED 8.5.2013 SUBMITTED TO THE INSPECTOR GENERAL OF POLICE, THRISSUR RANGE

ANNEXURE R2 (d) COPY OF THE SEARCH LIST DATED 1.5.2013 PREPARED BY THE INVESTIGATING OFFICER IN CRIME NO.296 OF 2013

ANNEXURE R2 (e) COPY OF THE JUDGMENT OF THE DIVISION BENCH OF THIS HON'BLE COURT IN W.P.(C)20808/2013.

//True copy//

P.A. TO JUDGE

Shg/

K. ABRAHAM MATHEW, J.

Crl.M.C.No.6153 of 2013

Dated this the 14th day of January, 2015

ORDER

This is a petition to quash the proceedings in crime No.296/2013 of Tanur Police Station registered against the petitioner who is the first accused in the case, for the offences under Sections 384, 389 & 448 of IPC and Section 13 of the Kerala Money Lenders Act.

2. The petitioner would submit that no offence under Sections 384 and 389 are disclosed.

3. Heard the learned counsel for the petitioner, the second respondent and the learned Public Prosecutor.

4. This case originated with the filing of a complaint by the second respondent before the District Police Chief, Malappuram. The second respondent's husband is a businessman in Chennai. He borrowed certain amount from the father of the petitioner who along with the petitioner are conducting money lending business without any authority and who realise exorbitant rate of interest from

the debtors. The petitioner along with some others took away the second respondent's husband by force and made him execute a transfer deed in respect of the share he had in the property in which the second respondent and the family live. On 23.4.2013 the petitioner along with some others trespassed into the second respondent's house at 9 in the night and threatened to throw her and the members of her family out of the house. These are the allegations in the complaint of the second respondent. It is on the basis of this complaint the police registered the case for the offences mentioned above.

5. The learned counsel for the petitioner submits that no offences under Sections 384 or 389 IPC is made out. It should be noticed that the complaint was drafted by an ordinary woman hailing from a village. She may be articulate as an advocate. So if certain facts are absent in her complaint that alone cannot be a ground to reject it. Pursuant to the registration of the case the police conducted a raid in the house of the petitioner and seized

the following documents:

- 1) a Rs.50/- stamp paper signed by one Fathima.
- 2) a Rs.50/- stamp paper signed by one P. Muhammed
- 3) a Rs.20/- stamp paper purchased in 2009.
- 4) Two cheques for Rs.5 lakhs bearing the signature of the husband of the second respondent. They do not bear date or the payee's name.
- 5) A blank cheque signed by the second respondent's husband.

6. The fact that the petitioner was in custody of the above documents prima facie reveals that he was conducting money lending business for which admittedly he had no license or authority.

7. The submission of the learned counsel for the petitioner is that these documents were obtained in 2009 and the petitioner admits that the husband of the second respondent does not owe him any money. That will not help him. The very fact that he did not return the cheques or the stamp papers definitely indicate that he retained them with malicious intention. This fact coupled with the admission of the petitioner that he went to the residence of the second

respondent when her husband was absent assumes significance. It is not denied that the time of visit was 9 in the night. These facts indicate that there is a case which should be investigated by the police. Even if it is assumed that Sections 384 & 389 IPC are not attracted, it cannot be said that the facts do not disclose commission of no offence. There is no merit in the petition.

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

Sd/-

**K. ABRAHAM MATHEW
JUDGE**

//True copy//

P.A. TO JUDGE

shg/