

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.MC.No. 6282 of 2013

**CC 74/2013 OF CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM
CRIME NO. 103/2013 OF KOTTAYAM EAST POLICE STATION , KOTTAYAM**

PETITIONER(S)/ACCUSED 1 TO 3:

- 1. KOCHEPAN SCARIA, AGED 61 YEARS,
S/O. SACARIA, MALATHETTU HOUSE, VEMPALLY.P.O.
KADAPPOOR, KANAKKARY, KOTTAYAM.**
- 2. GRACE,
W/O. KOCHEEPAN SACARIA, MALATHETTU HOUSE, VEMPALLY,
KADAPPOOR, KANEKKARY, KOTTAYAM.**
- 3. MERCY,
W/O. JOSEPH, KUDILIL HOUSE, PIRAVOM
KOTTAYAM.**

BY ADV. SRI.M.J.THOMAS

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. RAJAN,
S/O. KMARAN, DEVIKULAM PARAMBIL HOUSE,
NEAR MUTTAMBALAM GOVERNMENT UP SCHOOL, MUTTAMBALAM.**

R1 BY PUBLIC PROSECUTOR SMT.SAREENA

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08-10-2015,
ALONG WITH CRL.MC.NO.6352/2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANX.1. CERTIFIED COPY OF THE FIRST INFORMATION STATEMENT OF THE
DEFACTO COMPLAINANT WITH THE FIR IN CRIME NO. 103/2013 OF KOTTAYAM
EAST POLICE STATION.**

**ANX.2. CERTIFIED COPY OF THE STATEMENT OF CW9 BEENA WIFE OF THE
DEFACTO COMPLAINANT TAKEN U/S. 162 OF THE CODE OF THE CRIMINAL
PROCEDURE.**

**ANX.3. CERTIFIED COPY OF THE STATEMENT OF CW 10 SANTHAMMA WHO IS THE
MOTHER OF THE DEFACTO COMPLAINANT TAKEN U/S. 162 OF CR. P.C.**

ANX.4. CERTIFIED COPY OF THE SCENE MAHAZAR.

**ANX.5. CERTIFIED COPY OF THE CHARGE SHEET IN CC NO. 74/2013 OF THE CHIEF
JUDICIAL MAGISTRATE COURT, KOTTAYAM.**

RESPONDENT(S)' ANNEXURE

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

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Crl.M.C. Nos. 6282 & 6352 of 2013

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Dated this the 8th day of October, 2015

ORDER

The petitioners are A1 to A3 and A4 respectively in C.C.No.74 of 2013 of the Chief Judicial Magistrate's Court, Kottayam, which has arisen from Crime No.103 of 2013 of the Kottayam East Police Station, presently pending for the offences punishable under Sections 323, 294(b), 452 and 506(i) read with Section 34 IPC and Section 17 of the Kerala Money Lenders Act, 1958.

2. The learned counsel for the petitioners in both the Crl.M.Cs. has pointed out that there are serious infirmities in the prosecution case. Even though my attention has been invited to some of the statements under Section 161 Cr.P.C. allegedly

recorded from the witnesses. It seems that the crime was registered after taking away of the accused by the Police from the scene of occurrence. There are some improbabilities in case such statements are believed. Of course, this Court cannot go into the intrinsic particulars of the evidence collected by the investigating officer, at this stage. At the same time, those matters can be brought to the notice of the court below at the stage of Section 239 Cr.P.C. In case of a petition by the petitioners to that effect, the court below shall consider the same on merits and pass appropriate orders in accordance with law.

With the said liberty to the petitioners, these Crl.M.Cs are closed for the time being.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/9/10/15

// True Copy //

P.A. To Judge