

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

Cr1.MC.No. 6153 of 2014 ()

PETITIONER/ACCUSED:

SHIBU ISSAC, AGED 44 YEARS
S/O.ISSAC, RESIDING AT KUTTISRAKUDIYIL HOUSE
POTHANICAD, KOTHAMANGALAM, ERNAKULAM DISTRICT
PINCODE 686 671

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS/COMPLAINANT/STATE:

1. JOY JOHN
S/O.JOHN, RESIDING AT KOTTAKUZHIYIL HOUSE
VENDUVAZHY KOTHAMANGALAM
ERNAKULAM DISTRICT PINCODE 686 691

2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, COCHIN 682 031

R2 BY PUBLIC PROSECUTOR SMT.MAYA.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
26-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 6153 of 2014 ()

APPENDIX

PETITIONER(S) ' ANNEXURES:

ANNEXURE A -1 : TRUECOPY OF COMPLAINT DATED NIL IN CC NO 1/2012
FILED BY 1ST RESPONDENT UNDER SECTION 138 OF THE
NEGOTIABLE INSTRUMENTS ACT, 1988 BEFORE JUDICIAL FIRST
CLASS MAGISTRATE COURT, KOTHAMANGALAM

ANNEXURE A-2 : TRUE COPY OF CHEQUE NO 082993 DATED 26-10-2011
FOR RS.23,000/- OF IDBI BANK,KOTHAMANGALAM BRANCH
PRODUCED BY 1ST RESPONDENT BEFORE JUDICIAL FIRST CLAS
MAGISTRATE COURT,KOTHAMANGALAM

ANNEXURE A-3 : TRUE COPY OF CMP NO 1463/2014 DATED 30-05-2014 IN
CC NO 1/2012 FILED BY THE PETITIONER BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT,KOTHAMANGALAZM

ANNEXURE A-4 :TRUE COPY OF THE STANDARD REQSUISITION FORM

ANNEXURE A-5 TRUE COPY OF CMP NO 1464/2014 DATED 16-06-2014
IN CC NO 1/2012 FILED BY THE PETITIONER BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT,KOTHAMANGALAM

ANNEXURE A-6 TRUE COPY OF THE ORDER DATED 25-09-2014 OF THE
JUDICIAL FIRST CLAS MAGISTRATE COURT KOTHAMANGALAM IN
CMP NO 1464/2014 IN CC NO 1/2012

RESPONDENT(S) ' EXHIBITS : NIL

//True copy//

P.A to Judge

STU

B.KEMAL PASHA, J.

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Crl.M.C. No. 6153 of 2014

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Dated this the 26th day of October, 2015

O R D E R

Annexure - A6 order passed by the court below in CMP No.1464/2014 in C.C.No.1/2012 is under challenge. The case before the court below is as a result of a private complaint filed by the 1st respondent herein as complainant against the petitioner herein as accused, alleging an offence punishable under Section 138 of the Negotiable Instruments Act. From the very beginning, it has been contended by the petitioner that a blank signed cheque leaf was transformed as a cheque in this case and a false complaint has been filed alleging an offence under Section 138 of the N.I.Act. In order to prove that the writings in the cheque are not in the handwriting of the petitioner, the cheque was requested to be forwarded for examination by a handwriting expert. The said application was allowed. Subsequently, the petitioner

has filed CMP No.1464/2014 before the court below for calling upon the bank to produce all the cheques allegedly issued by the petitioner during the year 2011. The court below has dismissed the said CMP through Annexure - A6 order.

2. According to the learned counsel for the petitioner, in order to prove the standard writings of the petitioner during the period 2011, the other cheques issued by the petitioner during 2011 had to be produced by the bank.

3. The court below has considered the question in detail and has observed that even according to the petitioner, he used to hand over blank signed cheque leaves to his driver as well as employees for meeting urgent expenses and in such case, those cheques presented at the bank during 2011 are not useful for a comparison of the handwriting of the petitioner. There is absolutely nothing to interfere with Annexure - A6 order passed by the court

below. This Crl.M.C is devoid of merits and is only to be dismissed.

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

Sd/-
B.KEMAL PASHA, JUDGE

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