

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.MC.No. 6171 of 2014 ()

**ST.NO. 1091/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT.,TIRUR,
MALAPPURAM DISTRICT**

PETITIONER/ACCUSED:

**KAIPPALLY ABDULLA KUTTY,
S/O.KUNJAIDRU,AGED 42 YEARS,
KOLAKKAD.P.O, KUTTIPPURAM,
MALAPPURAM DISTRICT, PIN-679 571.**

BY ADV. SRI.MATHEW KURIAKOSE

RESPONDENTS/COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. CHANGAMPALLY KIZHAKKUMPATTU UMMER GURUKKAL,
AGED 52 YEARS, S/O.MUHAMMED @ BABBU GURUKKAL,
NADUVATTOM.P.O., KUTTIPPURAM,
MALAPPURAM DISTRICT-679 571.**

**R1 BY PUBLIC PROSECUTOR SMT. P.MAYA
R2 BY ADV. SRI.T.S.RAJAN**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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Crl.MC.No. 6171 of 2014 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX-A CERTIFIED COPY OF THE COMPLAINT DATED 04/07/2012

**ANNEX-B COPY OF AGREEMENT DATED 14.07.2011 ALLEGED TO BE EXECUTED
BY THE PETITIONER.**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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B.KEMAL PASHA, J.

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Crl.M.C. No. 6171 of 2014

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Dated this the 6th day of October, 2015

ORDER

The petitioner is the accused in S.T.No.1091/2012 of the Judicial First Class Magistrate's Court-I, Tirur, for the offence under Section 138 of the Negotiable Instruments Act. According to the petitioner, Annexure B agreement produced by the complainant before the court below is a fabricated one prepared on a blank stamp paper given to the complainant in a different transaction. It is further argued that even though Annexure B is accepted as a genuine document, then also it is evident that the cheque in question was not issued in discharge of a legally enforceable debt or liability.

2. Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent.

3. The learned counsel for the 2nd respondent has pointed out that the evidence in the case was over, the petitioner was examined under Section 313 Cr.P.C and the matter was heard. It was when the matter was taken for judgment, the present Crl.M.C has been filed.

4. It has come out that Annexure B agreement has not been challenged before the court below in evidence. The learned counsel for the 2nd respondent has pointed out that the petitioner has not even cared to mount the box. Annexure B agreement clearly shows that the cheque in question was issued in discharge of the liability covered by the agreement. Matters being so, presently, there is no merits in the Crl.M.C and the same is only to be dismissed and I do so.

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

Sd/-
B.KEMAL PASHA, JUDGE

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