

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

Crl.MC.No. 6308 of 2014 ()

CRIME NO. 1954/2014 OF KAYAMKULAM POLICE STATION.

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PETITIONER/ACCUSED:-

**P.B. SUDHAKARAN, SON OF BHANU, AGED 65 YEARS,
SANTHOSH VIHAR, KEERIKKAD THEKKUMMURI
KEERIKKAD VILLAGE, KAYAMKULAM P.O.,
ALAPPUZHA DISTRICT.**

**BY ADVS.SMT.K.P.SANTHI,
SRI.R.JAYAKRISHNAN (MUTHUKULAM),
SRI.RILGIN V.GEORGE.**

RESPONDENTS/COMPLAINANT:-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**
- 2. REMA,
DAUGHTER OF BHAVANI, THENCHERIL VEEDU,
KANNAMPALLY BHAGAM MURI, KEERIKKAD VILLAGE,
KEERIKKAD P.O., KAYAMKULAM, ALAPPUZHA DISTRICT-690 508.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.
R2 BY ADVS. SRI.P.B.SAHASRANAMAN,
SRI.T.S.HARIKUMAR.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE I. TRUE COPY OF THE FIR NO.1954/2014 OF KAYAMKULAM POLICE STATION.**
- ANNEXURE II. COPY OF THE SALE DEED NO.1765/1998, KAREELAKKULANGARA SUB REGISTRAR OFFICE.**
- ANNEXURE III. COPY OF THE JUDGMENT IN O.S.553/2003 BY THE MUNSIF COURT KAYAMKULAM ON 23/08/2007.**
- ANNEXURE IV. TRUE COPY OF THE JUDGMENT IN O.S.NO.589/2003 ON 12/02/2007.**
- ANNEXURE V. COPY OF THE ORDER IN I.A.268/2012 IN O.S.32/2012 ON 21/05/2012.**
- ANNEXURE VI. TRUE COPY OF THE ORDER ON 10/04/2013 IN I.A.741/2012 IN O.S.589/2003 ON 10/04/2013.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

.....
CRL. M.C. No.6308 of 2014
.....

Dated this the 30th day of September, 2015

ORDER

Petitioner is the accused in Crime No.1954/2014 of the Kayamkulam Police Station registered for the offences punishable under Section 420 IPC, Sections 3 and 17 of the Kerala Money Lenders Act, 1958 and Sections 3 and 4 of the Kerala Exorbitant interest rate Act, 2012.

2. The allegation against the petitioner is that he was a money lender and the defacto complainant had borrowed an amount of ₹25,000/- from him on 23.11.1998. It is alleged that by falsely representing that it was a hypothecation deed, a sale deed in respect of 5¾ cents of property belonging to the defacto complainant was obtained by the petitioner.

3. On perusing the records, it has come out that it is essentially a dispute with regard to the property. According to the petitioner, he has purchased the property in the year 1998 through a sale deed. Copy of the sale deed is also produced. Subsequently in the year 2003, O.S.No.553/2003 was filed by the petitioner, when the brother of the 2nd respondent, who is the defacto complainant, had attempted to trespass into the property. The 2nd respondent had filed O.S.No.589/2003 for getting the sale deed set aside. The said suit was dismissed. Once again in the year 2012, O.S.No.32/12 was filed by one of the brothers of the 2nd respondent seeking a decree of perpetual injunction. That suit was also dismissed, and O.S.No.553/03 filed by the petitioner was decreed in favour of the petitioner. When a drive against illegal money lending under the name of *Operation Kubera* has started, the 2nd respondent has chosen to prefer the present complaint alleging illegal money lending by the petitioner and also cheating. The

matter is purely civil in nature. It seems that the civil court has settled the dispute also. Therefore, the proceedings against the petitioner in the crime are not legally sustainable. Matters being so, Annexure I FIR and all further proceedings in Crime No.1954/2014 of the Kayamkulam Police Station, are liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure I FIR and all further proceedings in Crime No.1954/2014 of the Kayamkulam Police Station are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge