IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

Crl.MC.No. 6391 of 2014
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IN FIR NO.382/2014 OF THE EDATHUVA POLICE STATION, ALAPPUZHA DIST.

PETITIONER/ACCUSED:
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MAHESWARAN, AGED 50 YEARS,
S/O.BHASURAGAN, PUTHENPARAMBIL, SANTHOSH BHAVAN,
NEERETTUPURAMMURI, THALAVADI VILLAGE,
ALAPPUZHA DISTRICT.

BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)

RESPONDENTS/STATE/COMPLAINANT:
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1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUDARSANAN,
S/O.MADHAVAN, PANCHAJANNYAM HOUSE,
THALAVADINADUVILEMURI, THALAVADI VILLAGE,
ALAPPUZHA DISTRICT PIN - 689 572.

3. DHAMODHARAN, AGED 74 YEARS,
S/O.PANICKER, VALIYAPARAMBIL, PADINJAREKKARA MURI,
NEDUMPRAM VILLAGE, THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT, PIN - 689 645.

R2-R3 BY ADV. SRI.RAVI KRISHNAN
R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**Crl.MC.No. 6391 of 2014**
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**APPENDIX**

**PETITIONER'S ANNEXURES:**
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**ANNEXURE-1: CERTIFIED COPY OF FIR NO.382/2014 OF EDATHUVA POLICE STATION.**

**ANNEXURE-2: COPY OF SEARCH LIST IN 382/2014 OF EDATHUVA POLICE STATION.**

**ANNEXURE-3: AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 8.11.14**

**ANNEXURE-4: AFFIDAVIT FILED BY THE 3RD RESPONDENT DATED 8.11.14**

**RESPONDENTS' ANNEXURES:**
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**NIL**

**//TRUE COPY//**

**P.A TO JUDGE**

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**P.UBAID, J.**

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**Crl.M.C No.6391 of 2014**

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Dated this the 12th day of January, 2015

**O R D E R**

The petitioner herein claims to be a textiles trader. On the basis of seizure of some diaries from his house on 14.5.2014, the Sub Inspector of Police, Edathuwa registered a crime against the petitioner under Section 17(3) of the Kerala Money Lenders Act, under Section 3 of the Kerala Prohibition of Charging Exorbitant Interest Act and also under Section 420 of the Indian Penal Code. The said proceeding now under investigation is sought to be quashed under Section 482 of the Code of Criminal Procedure. This Court directed the Station House Officer to report whether any material other than some diary entries connecting the 2nd and 3rd respondents herein could be seized or collected by the police during investigation. The report is Nil. It appears that merely on the basis of some suspicion regarding some entries relating to a loan transaction or some transaction that occurred in 2003 and 2004, the police registered a crime against the petitioner. It is not known who was cheated by the petitioner herein, or whether anybody had at any time made complaint of cheating to the police. No doubt, the allegation under Section 420 of the Indian Penal Code is totally baseless. Now coming to the prosecution under the Kerala Money Lenders Act, I find that the prosecution has no material at all to substantiate the allegation that the petitioner was found involved in unauthorised money lending business. A single instance of money lending, or even sporadic instances of money lending personally will not attract a prosecution under the Kerala Money Lenders Act. It is not known what exactly are the entries in the seized diaries, connecting the respondents 2 and 3. They have filed affidavit in this proceeding that they had no transaction with the petitioner herein, they do not owe anything to the petitioner, and they have no grievance or complaint against the petitioner. They are also definite that they had not at any time made complaint against the petitioner. Merely, on the basis of some entries, made in 2003 and 2004, relating to some transaction; be it a money transaction or otherwise, a prosecution cannot at all be lodged under the Kerala Money Lenders Act. Such a prosecution in the absence of any material showing involvement of the petitioner in some sort of money lending unauthroisely will certainly be an abuse of legal process. Anyway, as regards respondents 2 and 3, the case stands settled amicably, and they have no grievance at all. I find that what the police could see from the seized diaries is only some instances of transaction between the respondents 2 and 3 and the petitioner. It is not known whether they owe any amount to the petitioner. Admittedly the petitioner has not so far initiated any legal action against them for the last 10 years. Whatever transaction is there between them, or had been between them, these respondents have no grievance now and every dispute now stands settled. The prosecution does not have any material to show that this crime involves any public issue or any public interest for a prosecution in public interest under the Kerala Money Lenders Act. I find that this is a clear instance of abuse of legal process, and so the proceeding against the petitioner will have to be put an end to.

In the result, this Criminal Miscellaneous Case is allowed. The FIR and the further proceeding in Crime No.382/2014 of the Edathuwa Police Station against the petitioner herein will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID**
**JUDGE**

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