

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

Crl.MC.No. 7600 of 2015

**CC 737/2013 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (E.O) COURT,
ERNAKULAM
CRIME NO. 814/2011 OF ERNAKULAM SOUTH POLICE STATION, ERNAKULAM**
.....

PETITIONER(S)/ACCUSED:

**SHAJI IYPE, AGED 55 YEARS,
S/O.IYPE, MANAYATH HOUSE, VIDYA VIHAR ROAD,
THEVARA P.O., KOCHI - 682 013.**

**BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SMT.MEGHA K.XAVIER**

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
07-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**A1: TRUE COPY OF FIR IN CRIME NO.814/2011 OF ERNAKULAM TOWN SOUTH
POLICE STATION**

A2: TRUE COPY OF SEARCH LIST DATED 7/5/2011

**A3: TRUE COPY OF LICENSE ISSUED TO THE PETITIONER BY ASSISTANT
COMMISSIONER, COMMERCIAL TAXES, ERNAKULAM DATED 25/11/1994.**

**A4: TRUE COPY OF LETTER ISSUED BY ASSISTANT COMMISSIONER, COMMERCIAL
TAXES, ERNAKULAM DATED 23/5/2011.**

**A5: TRUE COPY OF FINAL REPORT IN CRIME NO.814/2011 OF ERNAKULAM TOWN
SOUTH POLICE STATION**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

B. KEMAL PASHA, J.

.....
CRL.M.C. No. 7600 of 2015
.....

Dated this the 7th day of December, 2015

ORDER

Petitioner is the accused in C.C. No.737/2013 of the Additional Chief Judicial Magistrate's Court(Economic Offences), Ernakulam, which has arisen from Crime No.814/2011 of the Ernakulam Town South Police Station, registered for the offences punishable under Sections 17 and 18A(6A) of the Kerala Money Lenders Act, 1958(for short 'the Act').

2. It has come out that the petitioner is a holder of a valid license for money lending. The allegation against the petitioner is that in a search conducted at the premises of the petitioner, seven blank signed cheque leaves were seized from his premises. It has come out that CWs.6 and 7 have issued three such cheques. According to them, they

had taken financial loan from the petitioner, for which the said three cheque leaves were issued. According to them, the entire amount were repaid and they have forgotten to take the cheque leaves back. According to the petitioner, the petitioner has no claim over any of the cheque leaves in question, and that no amount has been due to the petitioner from those persons whose cheques were seized from his possession.

3. In order to bring out an offence under Section 18A(6A) of the Act, the pawner should have obtained documents containing blank entries. It is true that in this case seven blank signed cheques were seized. At the same time, the investigating officer has no case that those documents containing blank entries were obtained by the petitioner in the course of any pawn arrangement. Only when the pawner accepts any documents containing blank entries in the course of a pawn arrangement, the said offence can be attracted. When the petitioner is holding a

valid license, an offence under Section 17 also cannot be attracted. Matters being so, there cannot be a successful prosecution in the matter and all further proceedings in C.C.No.737/2013 of the Additional Chief Judicial Magistrate's Court(Economic Offences), Ernakulam, which has arisen from Crime No.814/2011 of Ernakulam Town South Police Station based Annexure A5 Final Report, as against the petitioner herein, are liable to be quashed.

In the result, this CrI.M.C. is allowed and all further proceedings in C.C.No.737/2013 of the Additional Chief Judicial Magistrate's Court(Economic Offences), Ernakulam, which has arisen from Crime No.814/2011 of Ernakulam Town South Police Station based Annexure A5 Final Report, as against the petitioner herein, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge