

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

Crl.MC.No. 6844 of 2014 ()

ST.NO. 1466/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, CHERTHALA

PETITIONER/ACCUSED :

**MR. VIMAL,
S/O.UMMACHAN, AGED 23 YEARS
THAYYIL VEEDU, KADAKKARAPPALLY P.O
CHERTHALA TALUK, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.LAL K. JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.P.MURALEEDHARAN (THURAVOOR)
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM**

RESPONDENTS/COMPLAINANT/STATE :

- 1. STATE OF KERALA
REP. BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SUB INSPECTOR OF POLICE
PATTANAKKADU POLICE STATION,
CHERTHALA, ALAPPUZHA-695 040.**
- 3. SUNILKUMAR,
S/O.SUGUNAN, AGED 51,
NEDUNGATTU VEEDU, KADAKKARAPPALLY P.O.,
PATTANAKKADU, CHERTHALA TALUK,
ALAPPUZHA DISTRICT-695 040.**

**R1 & R2 BY PUBLIC PROSECUTOR SMT. S. HYMA
R3 BY ADV. SRI.PHILIP J.VETTICKATTU**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...2/-

Crl.MC.No. 6844 of 2014 ()

APPENDIX

PETITIONERS' S :

**ANNEXURE A1 - CERTIFIED COPY OF THE FIR NO.107/13 OF PATTANAKKADU
POLICE STATION DATED 13-2-13.**

**ANNEXURE A2 - CERTIFIED COPY OF THE FINAL REPORT 14-03-2013 IN ST
NO.1466/2013 BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, CHERTHALA.**

**ANNEXURE A3 - TRUE COPY OF THE AFFIDAVIT DATED 16-10-2014 SIGNED BY
THE 3RD RESPONDENT BEFORE THE NOTARY PUBLIC
M.F.VARKEY**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

P.UBAID, J.

Crl.M.C..No. 6844 OF 2014

Dated this the 6th day of January, 2015

O R D E R

A prosecution under Section 18 of the Kerala Money Lenders Act, 1958 is sought to be quashed under Section 482 of the Crl.P.C. The crime in this case was registered suo motu by the police on the basis of seizure of some cheques from the possession of the petitioner herein. The grievance of the petitioner is that these cheques were not, in fact, received by him in money lending business. He seeks orders quashing the prosecution on the ground that such a prosecution will be a sheer abuse of legal process. On a perusal of the entire prosecution records including the FIR and the final report, I find that the prosecution does not have any material to show that the petitioner herein was found involving in any money lending business. What is made punishable under the Kerala Money Lenders Act is involvement in money lending business. Thus, the prosecution will have to prove some sort of

business in money lending for a successful prosecution. The mere fact that the accused was found in possession of some cheque leaves or some other documents will not prove a business transaction. Lending money to a person under one or more documents will not by itself constitute the offence of unauthorised money lending meant under the Kerala Money Lenders Act. Pending the proceedings, I directed the police to report whether any other material or document, than those seized by the police at the first instance were seized or recovered during investigation. The report is nil. This means that the dispute between the maker of the negotiable instruments and the petitioner herein is purely personal in nature. This dispute does not involve any public interest or public issue to attract the penal provisions of the Kerala Money Lenders Act. Maker of the negotiable instruments has now come to terms with the accused amicably, and has filed affidavit to the effect that he has no complaint or grievance. In the above circumstances, I find that this prosecution will be sheer abuse of legal process. No doubt, the prosecution cannot reach

anywhere with the materials at hand. In the above situation, the prosecution can be quashed to save the precise time of the Court.

In the result, the petition is allowed. The prosecution against the petitioner in S.T.No.1466/2013 of the Judicial First class Magistrate Court -I, Cherthala, will stand quashed under Section 482 of the Criminal Procedure Code. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-

P.UBAID, Judge.

dpk

/True copy/ PS to Judge.

