

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 25<sup>TH</sup> DAY OF OCTOBER 2022 / 3RD KARTHIKA, 1944

CRL.MC NO. 2337 OF 2013

AGAINST THE ORDER/JUDGMENTCC 28/2008 OF JUDICIAL MAGISTRATE

OF FIRST CLASS ,KATTAKADA

PETITIONER/ACCUSED:

PRASANNA KUMARI  
D/O.RAJAMMA, AGED 50 YEARS  
REVATHI,  
UCHAKADA, PAYATUVILA,  
NEYATTINKARA,  
THIRUVANANTHAPURAM.

BY ADV SRI.AYYAPPAN SANKAR

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA,  
ERNAKULAM.
- 2 K.C.SELVARAJ  
S/O.KRISTHUDAS, AGED 52 YEARS  
ATHULNIVAS,  
ACHAMATH KONAM, KANDALA,  
MARANALLOOR VILLAGE, NEYATTINKARA,  
THIRUVANANTHAPURAM DISTRICT.  
  
BY SMT.M.K.PUSHPALATHA  
SMT.VIJAYAKUMARI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON  
25.10.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

**Crl.M.C. No.2337 of 2013**

Dated this the 25<sup>th</sup> day of October, 2022

**ORDER**

Petitioner faces an indictment as the second accused in C.C. No.28 of 2008 on the files of the Judicial First Class Magistrate's Court, Kattakada. She has approached this Court under section 482 of the Code of Criminal Procedure, 1973, seeking to quash all further proceedings against her in the aforementioned case.

2. The grievance of the petitioner is that she had no role at all in the allegations and that she had been roped in as the second accused solely with malafide purposes. According to the petitioner, the complainant, who is the second respondent herein, had alleged that her husband had issued a cheque for Rs.1,50,000/- dated 24.05.2006 from a joint account maintained by her and her husband and that petitioner fraudulently omitted to sign the cheque and thereby committed the offences under sections 420 and 34 of the Indian Penal code, 1860. According to the petitioner, without ascertaining the nature of allegations, the Magistrate took cognizance and therefore seeks to quash the entire proceedings.

3. Sri. Ayyappan Sankar, the learned counsel for the petitioner contended that the prosecution against the petitioner as the second

accused is totally baseless and is an abuse of the process of court. According to him, even if the entire allegations in the complaint are admitted, no offences are made out against the petitioner, and she has been roped in as an accused solely for the purpose of compelling the first accused, who is her husband, to yield to the illegal demands of the petitioner

4. I have also heard Smt.M.K.Pushpalatha, learned Public Prosecutor for the first respondent and Smt.Vijayakumari, learned counsel for the second respondent.

5. A perusal of the cheque issued by the petitioner, which is produced along with Annexure A1 complaint, shows that the cheque contains only one signature. The memo of dishonour and the endorsement on the cheque shows that the account is closed. Therefore the cheque has been dishonoured for the reason of closure of account. The cheque has not been dishonoured for the absence of the signature of the petitioner. There is nothing to indicate that the cheque would have been honoured only if both the account holders had signed. It could have also been an account to be operated by either of the account holders. There is no allegation that the cheque would have been honoured only if both had signed. The complainant has not pleaded that it was an account wherein both the account holders must sign. Since the cheque has been issued only by one

person and even if the cheque contains the name of the petitioner and her husband, the liability will accrue only against the person who has signed the cheque. Further, the allegations in the complaint do not refer to the petitioner as having issued or as involved in the issuance of the cheque.

6. The requirement of section 420 Cr.P.C. is that there must be deceit and fraudulent or dishonest inducement. A perusal of the complaint clearly reveals that there is no allegation of any dishonest inducement by the petitioner. In such circumstances, arraying the petitioner as the second accused is an abuse of the process of court.

7. I am satisfied that even if the entire allegations are admitted, an offence under section 420 Cr.P.C. is not made out against the petitioner. Therefore, the proceedings in C.C. No.28 of 2008 on the files of the Judicial First Class Magistrate's Court, Kattakada is an abuse of the process of the court.

8. Accordingly, I quash all further proceedings in C.C. No.28 of 2008 on the files of the Judicial First Class Magistrate's Court, Kattakada, as against the petitioner.

This Crl.M.C. is allowed as above.

Sd/-

**BECHU KURIAN THOMAS**  
**JUDGE**

vps

**ANNEXURE**

**PETITIONER'S/S' ANNEXURES**

**ANNEXURE A1      CERTIFIED COPY OF THE COMPLAINT AND ANNEXED  
RECORDS ISSUED FROM THE JUDICIAL FIRST CLASS  
MAGISTRATE COURT, KATTAKADA DATED 31.10.2006**