

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

TUESDAY, THE 3RD DAY OF OCTOBER 2023 / 11TH ASWINA, 1945

CRL.MC NO. 8072 OF 2023

AGAINST THE ORDER/JUDGMENT CC 1390/2020 OF JUDICIAL

MAGISTRATE OF FIRST CLASS -II, ERNAKULAM

PETITIONER/ACCUSED:

DHANEESH.K.P

AGED 38 YEARS

S/O PEETHAMBARAN, KOZHIKATTIL HOUSE,

THAIKATTUKARA P.O, SN PURAM, ALUVA, PIN - 683106

BY ADV. SHAMSEERA. C.ASHRAF

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI, PIN - 682031
- 2 THE STATION HOUSE OFFICER
CENTRAL POLICE STATION, ERNAKULAM DISTRICT,
PIN - 682018
- 3 HANU @ SHANU
AGED 37 YEARS
EBANEZER GARDEN, 3 RD FLOOR, DOOR D, VIDYA NAGAR,
ERNAKULAM, PIN - 682022

BY ADV.

SRI.RENJITH TR PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03.10.2023, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.V.KUNHIKRISHNAN, J.

**-----
Crl.M.C. No.8072 of 2023
-----**

Dated this the 03rd day of October, 2023

ORDER

This Criminal Miscellaneous Case is filed to quash the proceedings in C.C.No.1390/2020 on the file of the Judicial First Class Magistrate Court - II, Ernakulam, arising from Crime No.248/2019 of Central Police Station, Ernakulam. The above case is charge-sheeted against the petitioner alleging offences punishable under Section 386 of the Indian Penal Code. The petitioner is the sole accused in the above case.

2. According to the petitioner, even if the entire allegations in the final report are accepted in toto, no offence is made out.

3. After hearing both sides, I am of the considered opinion that this Court need not interfere in the final report at this stage. The petitioner can be allowed to file a discharge petition before the court below if charge is not

framed and there can be a direction to consider the same within a time frame. The presence of the petitioner can be dispensed with till final orders are passed in the discharge petition.

Therefore, this Criminal Miscellaneous Case is disposed of in the following manner:

- i. The petitioner is free to file a discharge petition before the Judicial First Class Magistrate Court - II, Ernakulam, within two weeks from the date of receipt of a stamped certified copy of this order, if charge is not framed.
- ii. Once such a discharge petition is received, the Magistrate will consider the same and pass appropriate orders in it, after giving an opportunity of hearing to the petitioner and the Prosecutor concerned, within a period of six weeks from the date of receipt of the discharge petition.

- iii. If a discharge petition is filed as directed above, the presence of the petitioner shall not be insisted by the Magistrate, till final orders are passed in the discharge petition.
- iv. All the contentions raised by the petitioner in this criminal miscellaneous case are left open.

DM

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

APPENDIX OF CRL.MC 8072/2023

PETITIONER ANNEXURES

ANNEXURE A1	A TRUE COPY OF THE FIR IN CRIME NO: 248/2019 OF CENTRAL POLICE STATION, ERNAKULAM
ANNEXURE A2	A TRUE COPY OF THE FIS DATED 31/01/2019
ANNEXURE B	A2. A TRUE COPY OF ADDITIONAL STATEMENT OF THE 3 RD RESPONDENT TAKEN BY 2 ND RESPONDENT ON 31/01/2019
ANNEXURE C	A TRUE COPY OF ADDITIONAL STATEMENT GIVEN BY 3 RD RESPONDENT BEFORE 2 ND RESPONDENT
ANNEXURE D	A TRUE COPY OF THE FINAL REPORT/ CHARGE IN CC. NO: 1390/2020 IN CRIME NO: 248/2019 OF CENTRAL POLICE STATION, ERNAKULAM

RESPONDENTS EXHIBITS :NIL

//TRUE COPY// PA TO JUDGE