

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
TRIPUNITHURA

Present: Miss. Athira R S Panicker, Judicial First Class Magistrate

Dated this the 14th day of November, 2024

Crl. MP No. 1482/2024

in

CC No. 1274/2020

Petitioner/
Complainant : Fr.Issac Mattummel, Aged:69/20, mattummel
House,Kandanadu P.O, kandanadu,
Manager,St.Marys High School
Kandanadu,Tripunithura, Ernakulam

(By Adv. Kurian Joseph)

Respondent/Accused : 1.Wilson Paulose, Nedupurathu kudilil House,
Kureekkad P.O, Chottanikkara,
Pin – 682 305.
2. Abraham Mathew,
Puliyattu thukalaln House,
Near St.Marys High School,
Kandanadu,Tripunithura.

ORDER

This is a petition filed by the petitioner to direct the Managing Director, Capital Credit Corporation, Kothamangalam to produce the certified copy of the partnership deed.

2. The gist of the averments in the petition is as follows:- The above case is filed alleging offences u/ss.420 and 406 of the IPC and now the

above case stands posted for further evidence of the complainant. The defacto complainant was appointed by the members of the parish assembly of St.Mary's Orthodox Church, Kandanadu, held on 06.09.2019. The petitioner filed a petition directing the Managing Director, Capital Credit Corporation, Kothamangalam to furnish the hypothication details, partnership deed, and produce a document showing the payment to the registered owner and account details to which the amount was transferred. Subsequently, the Managing Director deposed that he is producing only the photocopy of the partnership deed, since the original of the partnership deed was produced before the Hon'ble Judicial First Class Magistrate Court, Kothamangalam. Further he deposed that he is ready to produce the certified copy of the partnership deed. Hence, the petition is filed to direct the Managing Director, Capital Credit Corporation, Kothamanglam to produce the certified copy of the partnership deed.

3. The respondent has not filed any objection. However, the learned counsel for the respondent vehemently opposed the petition.

4. Heard both sides and perused the records.

5. The above case arose on the private complaint filed by the petitioner herein/complainant alleging commission of the offences punishable u/ss. 406 & 420 of the IPC.

6. On issuance of the summons, accused persons had appeared before the court and they were released on bail. After compliance of S.207

of Cr.P.C the matter was posted for evidence u/s.244 of Cr.P.C. PW1 to PW3 were examined and Exts.P1 to P8 were marked on the side of the complainant and the matter is posted for further evidence u/s.244 of the Cr.P.C. At this stage, the petitioner filed this petition.

7. A perusal of the records would go to show that PW3- Binu Kuruvila had testified that the original of the partnership deed was produced before the Hon'ble Judicial First Class Magistrate Court, Kothamangalam and he can produce the certified copy of the same. Now the petitioner herein wants to direct PW3 to produce the said certified copy of the partnership deed. As stated earlier, the case is now at the stage of evidence u/s.244 of the Cr.P.C. The purpose of taking evidence u/S.244 Cr.P.C evidence is to be find out the existence of any grounds for presuming the accused has committed an offence or no case against the accused has been made out. Its primary purpose is only to find out whether there exist any prima facie case against the accused person to frame charge against him. A detailed evidence by the complainant is not required at this stage. Thus before the stage of framing charge, only the test of prima facie case is to be applied. In the instant case, PW1 to PW3 already examined and their evidence were recorded. In order to find out the existence of the prima face case against the accused person, the said evidence is available before the court and detailed evidence can only be considered at the stage of trial. The complainant /petitioner herein has sufficient opportunity to produce the

original or certified copy of the partnership deed at the time of trial as part of his evidence. At this stage, in order to find out the existence of the prima facie case against the accused, this court of the view that, the certified copy of the said partnership deed is not necessary. Thus, this court is of the opinion that this petition is not liable to be allowed.

In the result, the petition is dismissed.

(Dictated to the Confidential Assistant, taken down and transcribed by her, corrected and pronounced by me in the open court on this the 14th day of November, 2024.)

Sd/-
Judicial First Class Magistrate
Tripunithura

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