



2025:KER:29896

Crl.M.C.Nos.6580, 7382
& 7383 of 2017

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

CRL.MC NO. 6580 OF 2017

CRIME NO.2184/2012 OF ERNAKULAM CENTRAL POLICE STATION, ERNAKULAM

AGAINST THE ORDER IN CC NO.161 OF 2012 OF CHIEF JUDICIAL
MAGISTRATE, ERNAKULAM

PETITIONER/6TH ACCUSED:

VINODE V. LUKA,
AGED 43 YEARS
S/O. LATE V.D. LUKA, RESIDING AT VALLOMPRAIL HOUSE,
VADAKODE P.O., ERNAKULAM, KERALA - 682 021.

BY ADVS.SRI.P.CHANDRASEKHAR
SRI.C.V.MANUVILSAN
SMT.P.M.MAZNA MANSOOR
SMT.SANDHYA R.NAIR
SMT.K.VIDYA

RESPONDENT/STATE/ DE FACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER,
CENTRAL POLICE STATION, ERNAKULAM THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682 031.

2 C.O. ALEXANDER, AGED 65 YEARS,
S/O. KUNJACHAN, MANGALATH HOUSE, KANJIKUZHY,
MUTTAMBALAM VILLAGE, KOTTAYAM DISTRICT - 686 004.

BY ADVS. SRI.P.B.ASOKAN
SRI.S.SREEKUMAR ADUKKATH
SRI. SANGEETHARAJ N.R., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
17.03.2025, ALONG WITH CRL.MC.7383/2017 AND CONNECTED CASES, THE
COURT ON 08.04.2025 PASSED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

CRL.MC NO. 7382 OF 2017

CRIME NO.1001/2011 OF ERNAKULAM CENTRAL POLICE STATION, ERNAKULAM

AGAINST THE ORDER IN CMA NO.148 OF 2013 OF CHIEF JUDICIAL
MAGISTRATE, ERNAKULAM

PETITIONER/6TH ACCUSED:

VINODE V. LUKA,
AGED 43, S/O.V.D.LUKA,
VALLOMPRAIL HOUSE, VADAKODE P.O.,
ERNAKULAM, KERALA-682021.

BY ADVS.SRI.P.CHANDRASEKHAR
SRI.C.V.MANUVILSAN

RESPONDENT/STATE/ DE FACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER,
CENTRAL POLICE STATION, ERNAKULAM,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.

2 ABHILASH S.R.,
SANTHINIKETHAN, V.P.M ROAD,
EDAPPALLY TOLL, ERNAKULAM-682024.

SRI. SANGEETHARAJ N.R., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
17.03.2025, ALONG WITH CRL.MC.7383/2017 AND CONNECTED CASES, THE
COURT ON 08.04.2025 PASSED THE FOLLOWING:



2025:KER:29896

Crl.M.C.Nos.6580, 7382
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

CRL.MC NO. 7383 OF 2017

CRIME NO.945/2011 OF ALAPPUZHA SOUTH POLICE STATION, ALAPPUZHA

AGAINST THE ORDER IN CMA NO.1477 OF 2014 OF JUDICIAL
MAGISTRATE OF FIRST CLASS, RAMANKARI

PETITIONER/7TH ACCUSED:

VINODE V. LUKA
AGED 43 YEARS,
S/O. V.D. LUKA, VALLOMPRAIL HOUSE,
VADAKODE P.O, ERNAKULAM, KERALA-682021.

BY ADVS.SRI.P.CHANDRASEKHAR
SRI.C.V.MANUVILSAN

RESPONDENTS/STATE/DE FACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER,
CENTRAL POLICE STATION, ERNAKULAM,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682031.

2 PETER,
S/O. ROCKEY, THEKKEPALACKAL HOUSE,
ASHRAMAM XI WARD, ALAPPUZHA-688001.

BY ADV SMT.S.SIKKY
SRI. SANGEETHARAJ N.R., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
17.03.2025, ALONG WITH CRL.MC.6580/2017, 7382/2017, THE COURT ON
08.04.2025 PASSED THE FOLLOWING:

**ORDER**

The petitioner is the sixth accused in C.C.No.161/2012 and C.C.No.148/2013 on the files of the Chief Judicial Magistrate Court, Ernakulam, and the seventh accused in C.C.No.1477/2014 on the files of the Judicial First Class Magistrate Court, Ramankari. The offence alleged against the petitioner in C.C.No.161/2012 are under Sections 403, 420 and 120B read with Section 34 I.P.C and that of in C.C.No.148/2013 are under Sections 403 and 420 I.P.C read with Section 34 I.P.C and also under Sections 2(c), 3, 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The offence alleged in C.C.No.1477/2014 on the files of the Judicial First Class Magistrate Court, Ramankary are under Sections 409, 418, 420, 120(A) and 120(B) read with Section 34 I.P.C and Sections 2(c), 3, 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. In C.C.No.148/2013, there are altogether nine accused, and in the other two cases, there are eight accused.

2. The prosecution case is that, with the common intention to commit cheating, the accused had conspired together and gave the false promise to the depositors that if they invest in the



partnership firm by name 'LIS' conducted by the first accused as its Managing Trustee and accused Nos.2 and 3 as partners, the amount so deposited would be doubled within a year and that the investments so made by the depositors would be returned to them after the prescribed period as double the amount, and thereafter, did not honour the above commitment and failed to return the amount so deposited by the depositors. The petitioner was said to be working as Manager in the above establishment conducted by the first accused as Managing Trustee and accused Nos.2 and 3 as partners. The total amount embezzled in the crime involved in C.C.No.148/2013 is Rs.52,37,375/-, and that of in C.C.No.161/2012 and C.C.No.1477/2014 are respectively Rs.4,63,000/- and Rs.8,93,125/-.

3. In the present petitions, the petitioner would contend that he is totally innocent and that he has been falsely implicated in this case. It is further contended by the petitioner that he was only an employee of the establishment conducted by accused Nos.1 to 3 and that he cannot be held liable for the offences alleged in these



cases. For the above reason, the petitioner seeks to quash the proceedings in these cases.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State of Kerala.

5. Admittedly, the petitioner was working as Manager in the establishment by name 'LIS' which was run by the first accused as Managing Trustee and accused Nos.2 and 3 as the partners. The fourth accused is stated to be the Chairman of the above establishment, and the 8th accused, the partner of a sister concern of that partnership firm. It is pertinent to note that, apart from a general and superficial allegation that the employees at the office of the establishment by name 'LIS' had also compelled the depositors to invest in the financial business being conducted by the above firm, there is absolutely no specific indictment as against the petitioner herein. There is no case for any of the depositors that the petitioner herein was entrusted with any amount, or that the petitioner herein had collected any amount from the depositors after fraudulently and dishonestly inducing them to believe that their amounts would be doubled, if they are making investments in the firm conducted by



accused Nos.1 to 3. Going by the provisions contained in Section 6 of the Prize Chits and Money Circulation (Banning) Act, 1978, if an employee of a firm or other association of individuals has to be held liable for the offence committed by the firm, it has to be shown that he was in-charge of, and was responsible to the firm for the conduct of business of such firm. It is further provided thereunder that if a Manager, Secretary or other Officer of any such company or firm has to be attributed personally with the criminal liability in respect of the offence committed by such firm, it has to be shown that such offence was committed with the consent or connivance of, or is attributable to any neglect on the part of such Manager, Secretary or officer, as the case may be.

6. For the sake of convenience and easy reference, Section 6 of the Prize Chits and Money Circulation (Banning) Act, 1978 is extracted hereunder:

6. Offences by companies.—(1) *Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be*



deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section— (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm."

7. It is clear from the aforesaid provision of law that if a person has to be held liable for an offence committed by a company, firm or other association of individuals, it is the incumbent responsibility of the prosecution to establish that such person was in charge of, and responsible to the conduct of business of such company, firm or association of individuals. Likewise, it is clear from sub Section (2) of



Section 6 stated above that, if an Officer, Secretary or Manager of a company, firm or association of individuals has to be held personally liable for the offence committed by such association or firm, the prosecution has to establish that such offence was committed with the consent or connivance of, or it is attributable to, any neglect on the part of such Secretary, Manager or other officer of that firm. As far as the present case is concerned, there is absolutely nothing on record to show that the offence involved was committed with the consent or connivance of the petitioner, or that it is attributable to any neglect on the part of the petitioner. So also, there is nothing brought out from the final report and other records relied on by the prosecution that the petitioner, in his capacity as Manager, was in charge of, and responsible to the company and the conduct of business of the company. In that view of the matter, it has to be stated that the offence alleged in these cases, against the petitioner, are not brought out from the final report and other records relied on by the prosecution. Therefore, the request in these petitions to quash the proceedings against the petitioner in the aforesaid cases, is perfectly justifiable.



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In the result, all these petitions stand allowed. The proceedings against the petitioner, who is the 6th accused in C.C.No.148/2013 and C.C.No.161/2012 on the files of the Chief Judicial Magistrate Court, Ernakulam, and the 7th accused in C.C.No.1744/2014 on the files of the Judicial First Class Magistrate Court, Ramankari, are hereby quashed.

(Sd/-)

G. GIRISH, JUDGE

jsr



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APPENDIX OF CRL.MC 6580/2017

PETITIONER ANNEXURES

ANNEXURE A1	TRUE PHOTOCOPY OF COMPLAINT DATED 14.08.2012, VIDE CMP NO.2983 OF 2012 FILED BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
ANNEXURE A2	TRUE PHOTOCOPY OF FIR DATED 16.08.2012 IN CRIME NO. 2184 OF 2012, REGISTERED BY THE CENTRAL POLICE ERNAKULAM.
ANNEXURE A3	TRUE PHOTOCOPY OF FINAL REPORT DATED 25.09.2012 IN CRIME NO. 2184 OF 2012, FILED BY THE CENTRAL POLICE ERNAKULAM.
ANNEXURE A4	TRUE PHOTOCOPY OF THE ORDER DATED 27.10.2005 IN CRL. M.C.NO.2912/2005 DATED 27.10.2005.
ANNEXURE A5	TRUE PHOTOCOPY OF THE JUDGMENT DATED 30.01.2006 IN W.P.(C) NO. 33743/2005.
ANNEXURE A6	TRUE PHOTOCOPY OF THE ENQUIRY REPORT DATED 10.02.2006, VIDE NO. D12264/CB SR/2005 TO THE A.D.G.P. (CRIMES)
ANNEXURE A7	TRUE PHOTOCOPY OF THE AFFIDAVIT FILED ON BEHALF OF THE STATE DATED 25.11.2014, IN W.P.(C)NO.12352/14.
ANNEXURE A8	TRUE PHOTOCOPY OF THE INTERIM ORDER DATED 27.11.2014 IN W.P.(C) NO. 12352/14 AND W.P.(C) NO. 20167/14.



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APPENDIX OF CRL.MC 7382/2017

PETITIONER ANNEXURES

- ANNEXURE A1- TRUE PHOTOCOPY OF COMPLAINT DATED 08/03/2011, BEFORE THE INSPECTOR GENERAL OF POLICE ERNAKULAM.
- ANNEXURE A2- TRUE PHOTOCOPY OF FIR DATED 22/03/2011 IN CRIME NO.1001 OF 2011, REGISTERED BY THE CENTRAL POLICE ERNAKULAM.
- ANNEXURE A3- TRUE PHOTOCOPY OF FINAL REPORT DATED 30/04/2013 IN CRIME NO.1001 OF 2011, FILED BY THE CENTRAL POLICE ERNAKULAM.
- ANNEXURE A4- TRUE PHOTOCOPY OF THE ORDER DATED 27/10/2005 IN CRL.M.C.NO.2912/2005 DATED 27/10/2005.
- ANNEXURE A5- TRUE PHOTOCOPY OF THE JUDGMENT DATED 30/01/2006 IN W.P(C)NO.33743/2005.
- ANNEXURE A6- TRUE PHOTOCOPY OF THE ENQUIRY REPORT DATED 10/02/2006, VIDE NO.D12264/CB SR/2005 TO THE A.D.G.P. (CRIMES).
- ANNEXURE A7- TRUE COPY OF THE AFFIDAVIT FILED ON BEHALF OF THE STATE DATED 25/11/2014, IN WP(C)NO.12352/14.
- ANNEXURE A8- TRUE PHOTOCOPY OF THE INTERIM ORDER DATED 27/11/2014 IN WP(C)NO.12352/14 AND WP(C)NO.20167/14.



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APPENDIX OF CRL.MC 7383/2017

PETITIONER ANNEXURES

- ANNEXURE A1 TRUE PHOTOCOPY OF FIR DATED 25.10.11 IN
CRIME NO.789/11, REGISTERED BY THE NORTH
POLICE, ALAPPUZHA.
- ANNEXURE A2 TRUE PHOTOCOPY OF FIR DATED 28.10.11 IN
CRIME NO.945/11, REGISTERED BY THE SOUTH
POLICE, ALAPPUZHA.
- ANNEXURE A3 TRUE PHOTOCOPY OF FINAL REPORT DATED
25.09.12 IN CRIME NO.945 OF 2011, FILED BY
THE SOUTH POLICE, ALAPPUZHA.
- ANNEXURE A4 TRUE PHOTOCOPY OF THE ORDER DATED
27.10.2005 IN CRL.M.C.NO.2912/2005 DATED
27.10.2005.
- ANNEXURE A5 TRUE PHOTOCOPY OF THE JUDGMENT DATED
30.01.2006 IN W.P.(C) NO.33743/2005.
- ANNEXURE A6 TRUE PHOTOCOPY OF THE ENQUIRY REPORT DATED
10.02.2006 VIDE NO.D12264/CB SR/2005 TO THE
A.D.G.P.(CRIMES).
- ANNEXURE A7 TRUE PHOTOCOPY OF THE AFFIDAVIT FILED ON
BEHALF OF THE STATE DATED 25.11.2014, IN
WP(C) NO.12352/14.
- ANNEXURE A8 TRUE PHOTOCOPY OF THE INTERIM ORDER DATED
27.11.2014 IN WP(C) NO.12352/14 AND WP(C)
NO.20167/14.