

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE V.RAMKUMAR**

**MONDAY, THE 31ST MAY 2010 / 10TH JYAISTHA 1932**

**Crl.MC.No. 16 of 2010()**  
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**CC.245/2009 of JUDL. MAGISTRATE OF FIRST CLASS COURT-V, KOZHIKODE**  
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**PETITIONER/ACCUSED NO.2:**  
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**P. CHANDRAN, S/O.ARUMUGAN, AGED 71 YEARS  
SREEHARI HOUSE, KADALUNDI AMSOM,  
KOZHIKODE DISTRICT.**

**BY ADV. SRI.SUNNY MATHEW**

**RESPONDENTS/DEFACTO COMPLAINANT & STATE:**  
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- 1. STATE OF KERALA THROUGH THE CIRCLE  
INSPECTOR OF POLICE, CBCID, KOZHIKODE, REPRESENTED  
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.**
- 2. THE ELATHUR SERVICE CO-OPERATIVE BANK LTD.,  
ELATHUR P.O., KOZHIKODE DISTRICT,  
REPRESENTED BY ITS SECRETARY.**

**R1 BY PUBLIC PROSECUTOR MR.C.S. HRITHWIK.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 31/05/2010, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**rs.**

**V.RAMKUMAR, J.**

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**Crl.M.C.No.16 of 2010**  
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**Dated this the 31<sup>st</sup> day of May, 2010**

**ORDER**

The petitioner who is the second accused in Crime No.149/CR/93/CBCID, Kozhikode (arising from Crime No.90/92 of Farook Police Station) for offences punishable under Section 406, 409 and 381 read with Section 34 of the I.P.C and now pending before the Judicial Magistrate of the First Class-V, Kozhikode as C.C.No.245/2009 seeks to quash all further proceedings in the above case.

2. According to the petitioner he is aged 72 years and was at the relevant time working as the Chief Accountant of the Kadalundi Service Co-operative Bank and holding charge of the Secretary of the Bank and even according to the prosecution the allegation against him was only supervisory lapse. The petitioner would further contend that in Annexure A3 arbitration proceedings he has been exonerated from further disciplinary action. In those proceedings it has been noted that he had no alternative but to handover the keys to the first accused and the first accused was misutilising the keys.

3. All these are matters which the petitioner can profitably raise during the trial of the case. Now that the court below has framed charge in the case, the petitioner will have to face the trial. If a question of identity doesn't arise for consideration during trial, the petitioner may file a petition before the Court below for personal exemption and in case he files a petition containing proper averments, the court below shall exempt him from personal appearance. Being a case of the year 1992, interests of justice require that the matter is disposed of expeditiously. Accordingly this Criminal M.C. is disposed of directing the Judicial Magistrate of the First Class-V, Kozhikode to dispose of the case finally within a period of six months from the date of receipt of a copy of this order.

**V.RAMKUMAR, JUDGE**

skj