

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Crl.MC.No. 858 of 2015 ()

**CC 592/2013 of CHIEF JUDICIAL MAGISTRATE COURT,KASARAGOD
CRIME NO. 1165/2011 OF KASARAGOD POLICE STATION , KASARGOD DISTRICT
=====**

PETITIONER:

**Y.K.GOVINDA BHAT, S/O. KRISHNA BHAT, KRISHNAKRIPA
A.R. CAMP ROAD, PARAKATTA P.O., R.D. NAGAR, KASARAGOD**

**BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDEN():

- 1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031**
- 2. STATION HOUSE OFFI CER, KASARAGOD POLICE
STATION, PIN-671125**

BY PUBLIC PROSECUTOR SMT. S.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A1: TRUE COPY OF THE JUDGMENT IN CRL.M.C 2598/2013 DATED
2/8/2013.**

**ANNEXURE A2: PHOTOSTAT COPY OF THE FINAL REPORT FILED BY THE 2ND
RESPONDENT POLICE.**

**ANNEXURE A3: TRUE COPY OF THE JUDGMENT IN CC 592/2013 DATED 30/12/2014 OF
THE CHIEF JUDICIAL MAGISTRATE, KASARAGOD**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Cr.M.C.No.858 of 2015

Dated this the 11th day of February, 2015

O R D E R

The petitioner herein is the unfortunate defacto complainant in a prosecution involving theft of gold ornaments and an amount of Rs.50,000/-. On his complaint the police registered a crime and made investigation. In spite of earnest efforts, the stolen properties could not be recovered. However, the police submitted final report in court against the thief. He once appeared in court and pleaded not guilty. By that time further investigation in the crime was ordered. Even during further investigation, the police could not recover the stolen articles. Later, the accused made an application before the learned Magistrate to permit him to plead guilty. That application was allowed by the trial court. Accordingly, the accused pleaded guilty to the charge, and received sentence on conviction. He was accordingly sentenced to undergo rigorous imprisonment for one and half years under Section 454 IPC, another term of

rigorous imprisonment for one and half years under Section 380 IPC, and rigorous imprisonment for six months under Section 461 IPC. It is submitted that the accused is now undergoing sentence in jail. The defacto complainant has now come before this Court with a prayer to re-open the investigation. It appears that he wants one more effort by the police to recover the stolen articles. On a perusal of the case records I find no scope for interference. The police investigated the matter once, and thereafter, made a further investigation also. In spite of all earnest efforts during investigation and further investigation, the stolen articles could not be recovered. It appears that the petitioner is not confident now that the properties can be recovered. Still, he wants to make an experiment. Such an experiment cannot be allowed under Section 482 Cr.P.C. at this stage. A prosecution which stands concluded by a judgment of conviction cannot be re-opened for recovery of property. Such orders cannot be posted under Section 482 Cr.P.C. The learned counsel submits that the complainant is now helpless without any remedy. I do not think that he is helpless and remedyless. He can very well

think of filing a civil suit against the accused, who has admitted the guilt and received sentence.

In the result, this CrI.M.C. is dismissed in limine, without being admitted to files.

Sd/-
P. UBAID, JUDGE

sd