

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Crl.MC.No. 1253 of 2015 ()

AGAINST CC 41/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT,
TRIPUNITHURA
CRIME NO. 940/2014 OF HILL PALACE POLICE STATION , ERNAKULAM

PETITIONER(S)/PETITIONER/ACCUYSED:

SUNNY JOSEPH AGED 58 YEARS
S/O JOSEPH, KAITHAKOTTIL (H), PALLIPPARAMBUKAVU ROAD
TRIPUNITHURA, PIN:682301.

BY ADV. SRI.C.P.UDAYABHANU

RESPONDENTS/COMPLAINANT:

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1. SWAMINATHAN, AGED 44 YEARS
S/O KARUNAKARAN, KULAVELIPPADATH VEEDU, VYMITHI ROAD
EROOR, TRIPUNITHURA-682031.
 2. RAJAN C.P., AGED 48 YEARS
S/O PRABHAKARAN, KAVANAL VEEDU
EROOR TRIPUNITHURA-682031.
 3. SHEELA
W/O VARGHESE, POOTHOTTIL HOUSE
POINTHARA COLONY-682031.
 4. STATE OF KERALA
REPRESENTED BY THE S.I. OF POLICE
(CRIME 940/2014 OF HILL PALACE POLICE STATION)
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

R1-3 BY ADV. SMT.T.V.ASWATHY
R4 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1253 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I: A PHOTOCOPY OF THE FIR IN CRIME 940/14 OF HILL PALACE POLICE STATION.

ANNEXURE II: A CERTIFIED COPY OF THE CHARGE FINAL REPORT WHICH IS PENDING S C.C.41/15 ON THE FILE OF JFCM COURT, TRIPUNITHURA.

ANNEXURE III: AFFIDAVIT SWORN BY R1/CW4 IN ANNEXURE-II.

ANNEXURE IV: AFIDAVIT SWORN BY R2/CW5 IN ANNEXURE-II.

ANNEXURE V: AFFIDAVIT SWORN BY R3/CW6 IN ANNEXURE-II

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1253 of 2015**  
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Dated this the 5th March 2015

ORDER

The petitioner herein is the sole accused in C.C.No.41 of 2015 of the Judicial First Class Magistrate's Court, Tripunithura. Crime in this case was suo motu registered by the police under the provisions of the Kerala Money Lenders Act on the basis of seizure of some documents by the police on search in the premises of the petitioner. Now the petitioner and the victims have come to terms. The petitioner seeks orders quashing the prosecution on the ground of amicable settlement with the victims and also on the ground that the final report submitted by the police does not contain the required materials and essentials to constitute the offence alleged.

2. On hearing both sides, and on a perusal of the materials, I find that the Police submitted final report in this case simply on the basis of some materials seized on search. It is alleged that these documents relate to some persons. These persons are said to be the victims of

certain offence. During investigation, they gave definite statement that the accused had not in any manner harassed them or demanded more money or interest. Anyway, now there is settlement amicably and the victims have filed affidavit to the effect that the whole dispute stands settled, and they have no grievance or complaint now. In fact, on a perusal of the final report, I do not find the required essentials for a prosecution under the Kerala Money Lenders Act. Simple instances of borrowal without other consequences and elements required under the Money Lenders Act, will not attract prosecution under the Kerala Money Lenders Act. Anyway, the dispute now stands settled and nobody has any grievance or complaint against the petitioner. It is definite that nobody will support the prosecution, if the case proceeds on the basis of the final report submitted by the police.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No.41 of 2015 of the Judicial First Class Magistrate's Court, Tripunithura will stand quashed Section 482 of the Code of Criminal Procedure.

Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge