

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Crl.MC.No. 1540 of 2015 ()

CRIME NO. 546/2014 OF ELAMAKKARA POLICE STATION, ERNAKULAM DISTRICT.

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PETITIONERS/ACCUSED:

- 1. NISHANTH K.DAMODARAN, AGED 42 YEARS,
S/O.K.V. DAMODARAN, KODAVATHUM PARAMBIL HOUSE,
MAKKANAI, MANNAM P.O., NORTH PARAVUR.**
- 2. RAHIM P.Z., AGED 36 YEARS,
S/O.ZACHARIA, POTTEKATIL HOUSE,
EDAYAKUNNAM SOUTH CHITTOOR, ERNAKULAM.**
- 3. ANOOP P.T., AGED 26 YEARS,
S/O.T.A.THOMAS, PANAKKAL HOUSE, KOTHADU P.O.,
SOUTH CHITTOOR - 682 027.**
- 4. VIJIL V.A., AGED 26 YEARS,
S/O.ADRIYA, VARIYATHU HOUSE, KOTHADU P.O.,
SOUTH CHITTOOR - 682 027.**
- 5. SANJU SEBASTIAN, AGED 26 YEARS,
S/O.SEBASTIAN, THYKOOTTATHIL HOUSE,
KOTHADU P.O., SOUTH CHITTOOR - 682 027.**
- 6. YAZOR, AGED 33 YEARS, S/O.ABDUL SALAM,
VEZHAPILLY VEETIL, VELIYATHUNADU,
UCC, ALUVA.**
- 7. LAIJU V.H., AGED 36 YEARS,
S/O.HABEEB MUHAMMED, VELIYAKUNNATHU HOUSE,
FERRIC LANE, ALUVA.**
- 8. NAKUL S.BABU, AGED 26 YEARS,
S/O.SUMESH BABU, B1 55 FACT TOWNSHIP,
UDYOGAMANDAL P.O., ELOOR- 683 501.**
- 9. AJAS MUHAMMED ALI, AGED 31 YEARS,
S/O.MUHAMMED ALI, KADAVATHU HOUSE,
THOTTUMUGHAM, ALUVA. S.**

**10. RINJU, AGED 25 YEARS,
S/O.KUNJU MOHAMMED, CHANAYIL HOUSE,
THOTTUMUGHAM, ALUVA. S.**

**BY ADVS.SRI.NAGARAJ NARAYANAN,
SRI.SAIJO HASSAN,
SMT.AMRITA JAYARAM.**

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

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- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
 - 2. C.I. POLICE,
KALAMASSERY POLICE STATION,
ERNAKULAM DISTRICT- 683 104.**
 - 3. MUHAMMED FAZIL, AGED 23 YEARS,
S/O.ABDUL KHADER, RAVATT HOUSE, GRAMAM POST,
VELIYANCODE, MALAPPURAM, KERALA - 679 579.**

**R1 & R2 BY PUBLIC PROSECUTOR SRI.GITHESH. R.
R3 BY ADV. SRI.C.U.SANGEETH.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE I:** TRUE COPY OF THE FIR DATED 16/08/2014.
- ANNEXURE II:** TRUE COPY OF THE ORDER DATED 19/01/2015 IN B.A NO.7115/2014.
- ANNEXURE III:** TRUE COPY OF THE AFFIDAVIT DATED 19/09/2014 SWORN BY THE 3RD RESPONDENT/DEFACTO COMPLAINANT.
- ANNEXURE IV:** TRUE COPY OF THE RC BOOK OF VEHICLE NO.KL-27/8000.
- ANNEXURE V:** TRUE COPY OF THE BILL DATED 21/07/2014.
- ANNEXURE VI:** TRUE COPY OF THE COMPLAINT DATED 04/08/2014.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C No.1540 of 2015

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Dated this the 13th day of July, 2015

ORDER

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.546/2014 of Elamakkara Police Station, registered under Sections 341, 365, 342, 323, 324, 294(b), 506(ii) r/w 395 of IPC.

2. One of the offences alleged in this case is u/s 395 of the IPC. In Anx-II order dated 19.1.2015 passed by this Court in B.A No.7115/15 filed by the petitioners 1, 2, 6 and 7 herein, this Court has clearly observed that the Innova Car bearing registration No.KL-27-8000 belongs to Dhanya, who is none other than the wife of the first accused who is the first petitioner and that the said car was given to a workshop for carrying out repairs and maintenance and as the said Dhanya could not raise sufficient amounts to pay the repair charges at the workshop, the vehicle was not given back to her and thereafter, without her knowledge and consent, the

workshop owner used to rent out the car to strangers. During such a transaction, the car was illegally handed over by the workshop owner to the de facto complainant in the present impugned crime, who used to take the car to Malappuram and other distant places. The first petitioner was in search of the car and while so, he could locate it at Edappally and the car was taken possession of by the first petitioner etc. Apart from this, the investigating officer in this Crime has also filed statement dated 16.3.2015 in this Crl.M.C wherein it is stated in the paragraph 8 thereof that the Innova car bearing Reg.No.KL-27-8000 is belongs to Smt. Dhanya who is the wife of the first accused (first petitioner herein) and that the offence under Sec.395 vehicle will not thus survive in the facts of this case. Even without the settlement the impugned criminal proceedings to the extent the offence u/s 395 of the IPC involved is liable to be quashed. As far as the other offences, the accused and the de facto complainant has made a settlement and they have no objection for quashment of the impugned criminal proceedings pending against the petitioners. The quashment of the other offences involved could be considered on the basis of the settlement arrived at by the parties.

3. Accordingly, the impugned F.I.R and further proceedings arising out of Crime No.546/2014 of Elamakkara Police Station, including all further proceedings pending against the petitioners herein before the Judicial First Class Magistrate Court-II, Aluva will stand quashed under Section 482 of the Code of Criminal Procedure.

With these observations and directions this Crl.M.C. stands finally disposed of.

sd/-

sab

ALEXANDER THOMAS, JUDGE