

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

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937**

**Crl.MC.No. 1570 of 2014**  
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**CRIME NO. 319/2012 OF PEROORKADA POLICE STATION , THIRUVANANTHAPURAM**

**PETITIONER/ACCUSED:**  
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**D.RAJENDRAN, AGED 49 YEARS,  
S/O.J.DEVADASAN NADAR, RESIDING AT KOLLAM VILAKAM,  
ARANGAMUKAL, ARALUMMOODU P.O., THIRUVANANTHAPURAM  
PIN-695 123.**

**BY ADVS.SRI.P.K.IBRAHIM  
SMT.K.P.AMBIKA  
SMT.A.A.SHIBI**

**RESPONDENTS/COMPLAINANT:**  
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**1. STATE OF KERALA,  
REPRESENTED BY THE PUBIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.**

**2. THE SUB INSPECTOR OF POLICE,  
PEROORKADA POLICE STATION,  
THIRUVANANTHAPURAM-695 005.**

**\* ADDL.R3 IMPLEADED**

**ADDL.R3. DIRECTOR, GROUND WATER DEPARTMENT,  
JALAVIJNANA BHAVAN  
AMBALAMUKKU, THIRUVANANTHAPURAM-698 001.  
(ADDL. R3 IS IMPLEADED AS PER ORDER DATED 29/10/2014 IN  
CRL.MA.NO.5830/2014 IN CRL.M.C.NO.1570/2014)**

**BY PUBLIC PROSECUTOR SMT.S.HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
01-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**AS**

APPENDIX

PETITIONER(S)' EXHIBITS:

- ANNEXURE-A1: TRUE COPY OF THE FIR DATED 2/4/2012 REGISTERED AT PEROORKADA POLICE STATION FOR ROBBERY U/S.392 IPC.
- ANNEXURE-A2: TRUE COPY OF THE FINAL REPORT, WITH LIST OF WITNESSES SUBMITTED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II BY THE SUB INSPECTOR OF POLICE, PEROORKADA POLICE DATED 12/5/2012.
- ANNEXURE-A3: TRUE COPY OF THE TRANSFER ORDER NO.E1/5862/2011/DGW DATED 15/10/2011.
- ANNEXURE-A4: TRUE COPY OF THE APPLICATION DEATED 18/10/2011 UNDER RTI ACT.
- ANNEXURE-A5: TRUE COPY OF THE REPRESENTATION DATED 19/10/2011 SENT BY REGISTERED POST.
- ANNEXURE-A6: TRUE COPY OF THE ORDER DATED 25/10/2011 OF THE PUBLIC INFORMATION OFFICER REJECTING COPY OF THE LETTER.
- ANNEXURE-A7: TRUE COPY OF THE 2ND APPEAL DATED 12/12/2011 PREFERRED BY THE PETITIONER BEFORE THE STATE GOVERNMENT.
- ANNEXURE-A8: TRUE COPY OF THE ORDER IN OA NO.156/2012 DATED 6/2/2012 OF THE KERALA ADMINISTRATIVE TRIBUNAL, TRIVANDRUM.
- ANNEXURE-A9: TRUE COPY OF THE ORDER IN OA NO.156/2012 DATED 28/9/2012 OF THE KERALA ADMINISTRATIVE TRIBUNAL, TRIVANDRUM.
- ANNEXURE-A10(A): TRUE COPY OF THE LETTER OF MARCH 2012 OF THE DIRECTOR, GROUND WATER DEPARTMENT FORWARDING THE REPORT SUBMITTED TO THE GOVT. ON THE APPEAL PETITION OF THE PETITIONER.
- ANNEXURE-A10(B): TRUE COPY OF THE ASSISTANT EXECUTIVE ENGINEER OF THE KOLLAM CENTRAL WORKSHOPS AND STORES BEARING NO.117/2000/ESW DATED 14/9/2011.
- ANNEXURE-A11: TRUE COPY OF THE LETTER DATED 26/4/2012.
- ANNEXURE-A12: TRUE COPIES OF THE STATEMENT OF WITNESSES RECORDED BY THE 2ND RESPONDENT.
- ANNEXURE-A13: TRUE COPY OF THE ORDER IN G.O.(RT).NO.1440/2012/WRD/ DATED 10/12/2012.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

AS

P. UBAID, J.

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Crl.M.C.No.1570 of 2014  
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Dated this the 1<sup>st</sup> day of April, 2015

O R D E R

The petitioner herein is the sole accused in C.C.No.1694/2012 of the Judicial First Class Magistrate Court-II, Thiruvananthapuram. Crime in this case was registered under Section 392 Cr.P.C., on the complaint of one Rajesh, Director of Ground Water Department, Thiruvananthapuram, on the allegation that the petitioner herein, who was a subordinate of the complainant, snatched away an office file containing his transfer details, from the hands of the Junior Superintendent of the office. After investigation, the police submitted final report under Section 392 IPC, before the court below. The petitioner now seeks orders quashing the prosecution against him on the ground that this prosecution is legally unsustainable.

2. On hearing both sides, and on perusal of the final report and the complaint, I find that this is in fact a mischievous prosecution. It appears that the police officer who laid charge, does not know what is robbery. Section 378 IPC defines theft. "An act of theft to become punishable, must involve dishonest

removal of property out of the possession of a person". Section 24 IPC defines the term dishonestly. "An act to become dishonest, it must involve the intention of causing wrongful gain to one person or wrongful loss to another person." Section 390 IPC defines robbery. "In all robbery there is either theft or extortion". Theft will become robbery only if, "in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint." It is not known who advised the police officer to submit the final report under Section 392 IPC. It is also not known how merely snatching away a file from the superior officer by a subordinate officer, will amount to the offence of robbery. Of course, what the petitioner did, if the allegation is true, is something not allowed under the Rules governing government servants. He must be appropriately dealt with by the Department. For the said act to become culpable or punishable under the Indian Penal Code, it must satisfy the definition of a definite offence under the law. Merely snatching away a file due to some dispute in connection with the

petitioner's transfer or promotion will not amount to the offence of robbery. I find that continuance of the prosecution against the petitioner will be a sheer abuse of legal process. It is liable to be quashed.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.1694/2012 of the Judicial First Class Magistrate Court-II, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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