

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

Crl.MC.No. 3102 of 2015

**CC 1167/2005 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ERNAKULAM.
CRIME NO. 154/2003 OF ERNAKULAM CENTRAL POLICE STATION, ERNAKULAM.**
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PETITIONER(S)/ACCUSED 1 & 2:

- 1. DONY, AGED 29 YEARS, S/O. JOHNSON,
RESIDING AT PARAYANTHARA HOUSE,
NEAR ST. FRANCIS XAVIERS CHURCH,
KATHRUKADAVU P.O, ERNAKULAM.**
- 2. VINEESH, AGED 30 YEARS,
S/O. VIKRAMA MENON, RESIDING AT VIJAYA VIHAR,
EDAPPALLY SOUTH, PADIVATTOM, ERNAKULAM.**

**BY ADVS. SRI. AJOY VENU
SRI. M. M. NIAS**

RESPONDENT(S)/DEFACTO COMPLAINANT:

- 1. SUB INSPECTOR OF POLICE,
CENTRAL POLICE STATION, ERNAKULAM,
REP. BY THE GOVERNMENT PROSECUTOR,
HIGH COURT OF KERALA, KOCHI - 31.**
- 2. ANTONY SAJEEV, AGED 34 YEARS,
S/O. JOSEPH, RESIDING AT
NETTAYIKODATH HOUSE, THAMMANAM,
CHAKKARAPPARAMBU, ERNAKULAM - 682 032.**

**R1 BY PUBLIC PROSECUTOR SMT. S. HYMA
R2 BY SRI. J. R. PREM NVAZ**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1.** **TRUE COPY OF THE CHARGE SHEET IN CRIME NO.154/03 IN
CC 1167/2005 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II ERNAKULAM.**
- ANNEXURE A2.** **TRUE COPY OF THE JUDGMENT OF THE JUVENILE JUSTICE
BOARD DATED 21.1.2006.**
- ANNEXURE A3.** **TRUE COPY OF THE AFFIDAVIT OF THE DE-FACTO
COMPLAINANT.**

RESPONDENTS' ANNEXURES: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

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Dated this the 2nd day of June, 2015.

ORDER

A juvenile and the two petitioners herein are the accused Nos.1 to 3 in Crime No.154/2003 of Ernakulam Central Police Station registered for offences under Secs.201 & 379 r/w 34 IPC. The police after investigation submitted separate Final Report/Charge Sheet against the 1st accused–juvenile before the Juvenile Justice Board and as against the petitioners in the above said crime. The case against the petitioners are now pending in C.C.No.1167/2005 on the file of the Judicial First Class Magistrate Court-II, Ernakulam. The juvenile was tried which led to Annexure-A2 judgment whereby the juvenile was found guilty of the aforementioned offences and the Juvenile Justice Board released the juvenile under Sec.15(1)(a) of the Juvenile Justice Act after due admonition and counselling. The case of the prosecution is that the petitioners are involved in the crime for the committed offence of theft in the crime based on a complaint filed by the 2nd respondent–defacto complainant regarding the commission of theft of his motor cycle which was stolen on 1.3.2003 at 10:00 p.m. Which was kept locked in

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the parking area etc. It is pointed out that offence under Sec.379 IPC is compoundable as per the provisions of the Cr.P.C. The petitioners are aged their early 30's and it is pointed out that they were also innocent of the alleged commission of offence in the year 2003. It is stated that the disputes between the petitioners and the 2nd respondent-defacto complainant has been now resolved as borne out by Annexure-A3 affidavit filed by him wherein it is stated that the defacto complainant has no objection in quashing the impugned criminal proceedings against the petitioners. It is in the light of these aspects the petitioners have filed the instant Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

2. After hearing all parties concerned and going through the averments in the petition and after close scrutiny of Annexure-A3 affidavit sworn to by the defacto complainant as well as hearing his counsel and the learned Public Prosecutor, this Court is of the considered opinion that the prayer of the petitioners could be considered in the light of the legal principles well settled by the Apex Court.

3. Accordingly, it is ordered that impugned Annexure-A1 Final Report /Charge Sheet filed in impugned Crime No.154/2003 of

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Ernakulam Central Police Station which has led to the pendency of C.C.No.1167/2005 on the file of the Judicial First Class Magistrate Court-II, Ernakulam, and all further proceedings arising therefrom pending against the petitioners shall stand quashed. The petitioners shall produce a certified copy of this order before the Station House Officer concerned as well as before the court below concerned.

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

ALEXANDER THOMAS,
Judge.

bkn/-