

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

Crl.MC.No. 4457 of 2015 (E)

CC 27/2015 OF CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA

CRIME NO. 1846/2014 OF PATHANAMTHITTA POLICE STATION, PATHANAMTHITTA

PETITIONER(S)/ACCUSED 1 TO 4 :-

- 1. RIJUKHAN, AGED 22 YEARS,
S/O. AZEEZKHAN, THOLIYANIKARA, ANAPPARA.**
- 2. NAVAF, AGED 24 YEARS,
S/O. SHAREEF, NAVAF MANZIL, ANAPPARA.**
- 3. ASHIK @ MUHAMMED ASHIKH, AGED 20 YEARS,
S/O. AYOOBKHAN, THOLIYANIKKARA.**
- 4. SHAFEEK, AGED 21 YEARS, S/O.JAMAL,
KOYIKKAL MELETHIL, VALANCHUZH, KEMBAZHAMURI.**

**BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.VISHNU BHUVANENDRAN**

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. DULPA THUSHARI, AGED 37 YEARS,
W/O. AJI PHILIP, VELLAPLAKKAL PUTHEN VEEDU,
VAZHAMUTTAM, VALLIKODE VILLAGE,
NOW RESIDING AT THEJA LODGE, PULIMUKKU,
PATHANAMTHITTA DISTRICT - 689 645.**

**R2 BY ADV. SRI.C.U.SANGEETH
R1 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 4457 of 2015 (E)

APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE 1 - CERTIFIED COPY OF THE FIR DATED 03.10.2014.**
- ANNEXURE 2 - CERTIFIED COPY OF THE FINAL REPORT DATED 08.01.2015.**
- ANNEXURE 3 - TRUE COPY OF THE COMPROMISE AFFIDAVIT FILED BY THE
DEFACTO COMPLAINANT.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.4457 of 2015
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Dated this the 26th day of October, 2015

ORDER

The petitioners herein are the four accused in C.C.No.27 of 2015 of the Chief Judicial Magistrate Court, Pathanamthitta involving the offences under Sections 392 and 383 IPC, and under Section 119(b) of the Kerala Police Act. They seek orders quashing the prosecution on the ground of settlement of the whole dispute between them and the defacto complainant. There is a police report that the 2nd accused is involved in some other crimes, and he is a habitual offender. Robbery involving a gold ornament is alleged in this case. Prosecution case against the four accused is that they jointly committed the said offence. As regards the second accused, there is an adverse report that he is a habitual offender, habitually involving in similar offences. If the case against the other accused is quashed, it will affect the prosecution against the second accused. In view of the police report regarding the

second accused, I am not inclined to allow his request, and quash the prosecution as against him. It is definite that if the prosecution is quashed in part as regards the accused Nos.1, 3 and 4, it will definitely affect the prosecution against the second accused, if the case goes to trial. This is not a case where the responsibility can be split up. An examination of the prosecution records reveal that the alleged robbery was in fact committed by all the other four accused. Just because, the dispute between some of the accused and the complainant stands settled, the Court cannot quash the prosecution in part, if it will affect the prosecution against the other accused whose case cannot be quashed.

In the result, this Crl.M.C. is dismissed.

Sd/-
**P.UBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE