

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

Crl.MC.No. 5238 of 2015

**C.C.NO.1168/2005 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
ERNAKULAM
CRIME NO. 765/2002 OF ERNAKULAM CENTRAL POLICE STATION , ERNAKULAM**

PETITIONER(S)/ACCUSED NO 5 :

**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
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**
- 2. SHAMEER A.K, AGED 39 YEARS,
S/O.ABDUL KAREEM, THAIPPARAMBIL HOUSE, AMBALAPPUZHA P.O.,
ALAPPUZHA, NOW RESIDING AT HOUSE NO.2002,
MANAKKAD HOUSE, CHANGAMPUZHA NAGAR, KALAMASSERY,
NORTH ERNAKULAM- 682 024.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEOEGE
R2 BY ADV. SRI.P.T.SHEEJISH**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A1: TRUE COPY OF THE CHARGE SHEET IN CRIME NO.765/2002
IN CC.NO.1168/2005 OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-II, ERNAKULAM.**

**ANNEXURE A2: THE TRUE COPY OF THE ORDER DATED 10.12.2014 PASSED
BY THE HON'BLE HIGH COURT IN CRL.MC.6400/2002.**

**ANNEXURE A3: TRUE COPY OF THE AFFIDAVIT DATED 08.08.2015 FILED BY
THE DEFACTO COMPLAINANT.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B. KEMAL PASHA, J.

.....
Crl.M.C. No.5238 of 2015
.....

Dated this the 3rd day of September, 2015

ORDER

~ ~ ~ ~ ~

Petitioner is the 5th accused in C.C.No.1168/2005 pending before the JFCM-II, Ernakulam for the offences punishable under Sections 379 and 201 read with Section 34 IPC. The allegation is one of theft of the motor bike of the de facto complainant. It seems that the allegation against the present petitioner is that he was instrumental in dismantling the vehicle and affixing some portions of the same to the motor bike of the 4th accused. Further allegation against the petitioner is that he had altered the Chasis number of the vehicle. According to the petitioner, this Court has quashed the charges against accused Nos.3 and 4 and, therefore, the same benefit may be extended to the present petitioner also.

2. This Court is of the view that when the offence is

one of theft, this Court cannot exercise the power under Section 482 Cr.P.C. for quashing such a grave offence. Of course, when another Bench of this Court had quashed the charges against accused Nos.3 and 4, the court below shall expedite the proceedings and dispose of the matter expeditiously. This Court cannot accept the settlement arrived at between the petitioner and the de facto complainant.

With the said observations, this CrI.M.C. is dismissed.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/03/09

// True Copy //

PA to Judge