

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Crl.MC.No. 7140 of 2015 ()

IN CC 320/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT.-I, CHERTHALA

CRIME NO. 132/2004 OF KUTHIYATHODE POLICE STATION , ALAPPUZHA

PETITIONER(S)/ACCUSED NO.2:

**SHIJIMON JOSEPH, S/O.JOSEPH AGED 34 YEARS
PUTHUKKATTU VEETIL, EZHUPUNNA VILLAGE
CHERTHALA TALUK.**

BY ADV. SRI.B.PRAMOD

RESPONDENT(S)/RESPONDENTS:

**1. STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

**2. VRINDA DEVI
AGED 58 YEARS, W/O.GAJENDRA KAMMATH, JAYA NIVAS
THURAVOOR KURTHIYATHODU VILLAGE, CHERTHALA.**

**R2 BY ADV. SRI.P.SHANES METHAR
R1 BY ADV. JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 7140 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE 1: COPY OF THE CHARGE SHEET IN CRIME NO.132/2004 OF
KUTHIATHODU POLICE STATION, ALAPPUZHA DISTRICT.**

ANNEXURE II: AFFIDAVIT OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

P. UBAID, J.

Crl.M.C.No.7140 of 2015

Dated this the 15th day of December, 2015

ORDER

The petitioner herein is the 2nd accused in C.C.No.746/2004 of the Judicial First Class Magistrate Court - I, Cherthala. During the proceedings, both the accused absconded from legal process. The case then happened to be transferred to the register of long pending cases. The first accused later surrendered on 03.10.2008. His case was refiled as C.C.No.1327/2008, and after trial, he was convicted by the Court under Section 379 IPC. The first accused was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rupees Three thousand. The case against the petitioner herein continued in the register of long pending cases till he surrendered in February 2014. His case is now pending as C.C.No.320/2014 in the court below. He now seeks orders quashing the prosecution against him on the ground of amicable settlement of the whole dispute between him and the de facto complainant. The 2nd respondent herein is the victim of offence. She has filed affidavit to the effect that the whole dispute stands

settled and she has no grievance or complaint now. After 2009, the offence under Section 379 IPC is compoundable under the law, irrespective of the value of the stolen article. As on the date of commission of the offence in this case also, it was compoundable, subject to a limit of Rupees Two thousand. Composition is not possible because the value of the subject matter exceeds Rupees Two thousand. That is why the petitioner now seeks orders from this Court under Section 482 of the Code of Criminal Procedure.

2. The victim's affidavit shows that the whole dispute now stands settled further. It is submitted that the victim has received double the value of the stolen article. I find that the parties have come to terms amicably and the parties are now on quite cordial terms. I do not think that quashing the proceedings against the petitioner will convey any wrong message when the offence is presently compoundable under the law.

In the result, the petition is allowed. The prosecution against the petitioner in C.C.No.320/2014 of the Judicial First Class Magistrate Court - I, Cherthala will stand quashed under Section 482 of the Code of Criminal Procedure.