

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. 7540 of 2015 ()

IN CC NO.321/2014 of JUDICIAL FIRST CLASS MAGISTRATE-I, CHERTHALA

CRIME NO. 81/2004 OF KUTHIYATHODE POLICE STATION , ALAPPUZHA

PETITIONER/ACCUSED NO.2:

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

BY ADV. SRI.B.PRAMOD

RESPONDENT(S)/RESPONDENTS:

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

**2. MELGI BENNY
W/O.BENNY, POOTHURASEERIL HOUSE, WARD NO.2
THURAVOOR PANCHAYATH, CHERTHALA-688524.**

**R2 BY ADV. SRI.P.SHANES METHAR
R1 BY SRI 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. 7540 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS:

**ANNEXURE 1: COPY OF HTE CHARGE-SHEET IN CRIME NO.81/2004 OF
KUTHIATHODU POLICE STATION, ALAPPUZHA DISTRICT**

ANNEXURE II: AFFIDAVIT OF THE 2ND RESPONDENT

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

P. UBAID, J.

Crl.M.C.No.7540 of 2015

Dated this the 15th day of December, 2015

ORDER

The petitioner herein is the 2nd accused in CC No.746/2004. The offence involved is under Section 379 IPC. The case against the petitioner was refiled as C.C.No.321/2014 when he absconded. The 1st accused has been facing trial in C.C.No.746/2014. The petitioner seeks orders quashing the prosecution against him on the ground of amicable settlement of the whole dispute between him and the de facto complainant. He has come to terms with the victim of offence, who is the 2nd respondent herein. She has filed affidavit to the effect that the whole dispute stands settled and she has no grievance or complaint now. The offence under Section 379 IPC is now compoundable under the law irrespective of the value of the stolen article. Composition is possible between the complainant and one or all the accused. But as on the date of the alleged incident in this case composition was permissible, subject to a monetary limit. The value of the property in this case exceeds Rupees Two thousand. That is why composition before the court

below is not possible. The victim's affidavit shows that the whole dispute stands settled. It is submitted that the victim has received double the value of the property stolen in this case, and that is why she has no grievance or complaint. Another case against the petitioner also stands settled and quashed. It is submitted by the learned Public Prosecutor that the petitioner is not involved in any other case than these two cases where the victim has come to terms with the accused. I find that orders quashing the prosecution as against the petitioner herein will not affect the trial against the 1st accused, who actually snatched away the gold ornaments as alleged. 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.321/2014 of the Judicial First Class Magistrate Court - I, Cherthala will stand quashed under Section 482 of the Code of Criminal Procedure.

JV

SD/-
P. UBAID
JUDGE