

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

Crl.MC.No. 7239 of 2014

IN CC 2373/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
-II, THIRUVANANTHAPURAM

PETITIONERS:

1. N.GANESHAN, AGED 50 YEARS,
S/O.M.NATARAJA GUPTA, TC 20/60(9), VAISHNAVI,
GNRA-52, SIVALAYAM ROAD, MELARANOOR,
KARAMANA POST, THIRUVANANTHAPURAM-2.
2. T.ASOK KUMAR,
S/O.SHANTI, SHANTI NIVAS, TC 23/419,
VALIYASALAI, THIRUVANANTHAPURAM-36.

BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. DEPUTY SUPERINTENDENT OF POLICE,
CRIME BRANCH, ENFORCEMENT WING, SUB UNIT,
THIRUVANANTHAPURAM-1.
3. V.BHASKARA RAJAN, AGED 47 YEARS,
S/O.LATE VELAYUDHAN, SRUTHI MANDIRAM,
SANTOSH NAGAR,
NEERMANKARA, PAPPANAMCODE POST,
THIRUVANANTHAPURAM-2.

R3 BY ADV. SRI.N.KRISHNA PRASAD
R3 BY ADV. SRI.P.G.PRAMOD
R1 & R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 7239 of 2014

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE 1: COPY OF THE FIR DT.26-11-2012 IN 1965/2012.

ANNEXURE 2: COPY OF THE FINAL REPORT (RELEVANT PORTIONS)
DT.30-6-14 AND TAKEN ON FILE AS CC 2373/14 BEFORE THE HONOURABLE
JFCM-II, THIRUVANANTHAPURAM.

ANNEXURE 3: COPY OF THE JUDGMENT IN CR.M.C NO.870/2013
DT 5-3-13.

ANNEXURE 4: COPY OF THE JUDGMENT IN CR.M.C NO.1609/14 DT.27-3-14.

ANNEXURE 5: COPY OF THE AFFIDAVIT DT.24.5.2014 SWORN BY R3.

ANNEXURE 5(A): COPY OF THE AFFIDAVIT DT.25.5.2014 SWORN BY R3.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.7239 of 2014

Dated this the 22nd day of January, 2015

O R D E R

The 3rd respondent herein borrowed money from different persons on different occasions, in different transactions. When persistent demand came from those who lent money to him, the 3rd respondent filed a complaint before the police, evidently to escape from his liability. On getting the said complaint, the police wrongly registered a crime and wrongly arraigned all these persons as accused in the same crime. Pending the investigation, this Court quashed the proceeding against six among the eleven accused arraigned by the police in the same crime. In spite of observations made by this Court, the police wrongly proceeded and submitted final report against five persons under Section 384 of the Indian Penal Code, and also under the Kerala Money Lenders Act. Charge was laid under the Kerala Prevention of Charging Exorbitant Interest Act also. The petitioners herein are the accused Nos.1 and 2 arraigned in the said final report, on which the Judicial

First Class Magistrate Court II, Thiruvananthapuram took cognizance in C.C. No.2373/2014. The petitioners now seek orders quashing the prosecution as against them in C.C No.2373/2014, on the ground of amicable settlement with the 3rd respondent. The 3rd respondent has filed affidavit to the effect that he has no grievance or complaint now, and the whole dispute stands settled with these petitioners. I reserve my comments on the wrong action and investigation made by the police in this crime. There is reason to believe that the investigating officer had clear knowledge of the said wrong. Anyway, the dispute now stands settled. The person who made the complaint has no grievance or complaint now. The police still has no explanation how eleven persons who lent money to him, in different transactions, on different dates could be proceeded in a single crime. When the dispute stands settled, I am not inclined to go into the legal aspects and make comments against the police who did the wrong.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioners herein in C.C No.2373/2014 of Judicial First Class Magistrate Court II, Thiruvananthapuram will stand quashed under Section 482 of

the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged

**P.UBAID
JUDGE**

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