

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

Crl.MC.No.7406 of 2014 ()

**AGAINST THE ORDER IN CRMP 556/2014 of J.M.F.C.-I, ALUVA
DATED 08-04-2014**

CRIME NO. 1952/2013 OF ALUVA EAST POLICE STATION , ERNAKULAM

PETITIONER/ACCUSED :

**RATHEESH @ KOZHY RATHEESH, AGED 50 YEARS
S/O. NANDIKESAN, THURUMBUMKALAYIL HOUSE
POONATHOOR KARA, PANATHADI, HOSDURG
KASARAGOD DISTRICT.**

**BY ADVS.SRI.K.B.ARUNKUMAR
SRI.K.S.HARIDAS**

RESPONDENT/STATE :

**STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
ALUVA EAST POLICE STATION, ERNAKULAM DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682032.**

BY PUBLIC PROSECUTOR SMT.S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
02-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

VS

Crl.MC.No.7406 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE 1 - THE TRUE COPY OF THE ORDER DATED CMP NO. 1020(A)/2014 IN CRIME NO. 342/2013 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KOCHI.**
- ANNEXURE 2 - THE TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALUVA.**
- ANNEXURE 3 - THE CERTIFIED COPY OF ORDER DATED 08-04-2014 IN CRL.M.P.NO. 556/2014 IN CRIME NO. 1952/2013 NOW PENDING ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALUVA.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

P.UBAID, J

Crl.M.C.No.7406 of 2014

Dated this the 2nd day of March, 2015

ORDER

The petitioner herein is the accused in Crime.No.1952/2013 of the Aluva East Police Station registered under Sections 457, 461 and 380 of IPC. The petitioner was arrested by the police, and on search, the police seized some ornaments and amount from the possession of the petitioner. The petitioner made an application before the learned Magistrate under Section 451 of Cr.P.C. The learned Magistrate dismissed the application on the ground that, it is a matter to be decided on trial whether, these ornaments were in fact purchased by the petitioner with the stolen amount, or whether these are the personal properties of the accused. The petitioner has no explanation as to how and why he was found in possession of such ornaments, at the time of arrest in the night. It is submitted that, he is a person doing textile business. It is not known how such a person is involved as accused in ten crimes. All these crimes involve the offences of house

breaking, theft etc. There is police report that the petitioner is a habitual offender, involving in offences like house breaking, theft, robbery etc. Such a person will have to explain how, and in what circumstance, he was found in possession of some gold ornaments. The court will have to consider the prosecution allegation at this stage that these ornaments were purchased by him with the amount stolen from the possession of the complainant. He will have to prove his claim during trial. It is appropriate that the ornaments be not released to him under Sections 451 Cr.P.C. I find no ground to interfere in the order passed by the court below.

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

Sd/-
P.UBAID
JUDGE

/TRUE COPY/

PA TO JUDGE

VS