IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

Crl.MC.No. 7439 of 2014

IN CC 46/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT III, KOTTAYAM

CRIME NO. 644/2013 OF KUMARAKOM POLICE STATION , KOTTAYAM

PETITIONER/ACCUSED:

RAJAKRISHNAN, AGED 33 YEARS,
S/O.SASEENDRAN CHETTIYAR, RAJEES BHAVAN,
CHENGALAM VILLAGE, CHEGALAM KARA, KUMARAKAM
KOTTAYAM

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

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA
   REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
   ERNAKULAM(CRIME NO 644/2013 OF KUMRAKOM POLICE STATION
   KOTTAYAM DIST)

2. AJEESH, AGED 33 YEARS,
   S/O.CHACKO, NADUPPARAMBU VEEDU, DEVALOKAM
   KOTTAYAM-686001

R2 BY ADV. SRI.VINOD KUMAR.C
R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 7439 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE I:-CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO 644/13 OF KUMARAKOM POLICE STATION

ANNEXURE II:-AFFIDAVIT DTD 18/12/2014 SWORN BY THE SECOND RESPONDENT DULY ATTESTED BY NOTARY PUBLIC

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.7439 of 2014

Dated this the 14th day of January, 2015

O R D E R

A prosecution initiated under the Kerala Money Lenders Act, and also under Section 506 of the Indian Penal Code, against the petitioner herein, at the instance of the 2nd respondent, is sought to be quashed under Section 482 of the Code of Criminal Procedure. The subject matter of the complaint is an instance of borrowal made by the 2nd respondent from the petitioner. When the petitioner made persistent demand, which according to the 2nd respondent was illegal, he made a complaint. Now the parties have come to terms amicably and the complainant does not want to prosecute the matter. Of course, it is not known how a single instance of money lending, or even sporadic instances of money lending, without involving the elements of business as such, will attract a prosecution under the Kerala Money Lenders Act. Here the police has not seized any document proving any such money lending business, and what could be seized is only a few documents in the name of the 2nd respondent herein, showing only one instance of money lending between him and the petitioner. This is not at all sufficient for a successful prosecution under the Kerala Money Lenders Act. A mere instance of money lending will not make a business of lending. Anyway, the dispute between the petitioner and the 2nd respondent stands amicably settled. The 2nd respondent has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no complaint or grievance now. If prosecution proceeds, the police will have to explain how a crime under the Kerala Money Lenders Act happened to be registered on the basis of a solitary instance of borrowal made by the 2nd respondent. I am well satisfied that there is a real and genuine settlement between the petitioner and the 2nd respondent. The issue herein does not involve any public interest. I find that, in the above circumstance of amicable settlement, the prosecution can be closed because continuance of prosecution will not serve any purpose.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioner herein in C.C No.46/2014 of the Judicial First Class Magistrate Court III, Kottayam, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

P.UBAID
JUDGE

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