

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 2690 of 2006()

CC.71/2006 of CHIEF JUDICIAL MAGISTRATE COURT, THRISSUR
CRIME NO.171/06 OF THE THRISSUR TOWN EAST POLICE STATION.
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PETITIONER: ACCUSED NOS. 1 TO 4

1. JOBY, S/O.JOSEPH,
CHUZHAPARAMBIL HOUSE, AYYANTHOLE VILLAGE
DESOM, THRISSUR DISTRICT.
2. SREEJITH.P.S., S/O.SREEDHARAN,
SAKUNTHALA VEEDU, PALLASANA VILLAGE,
PALAKKAD DISTRICT.
3. RAJESH, S/O.MUKUNDAN KAIMAL,
PALLIYANI HOUSE, PURANATTUKARA,
THRISSUR DISTRICT.
4. GOPU, S/O.K.G.MENON,
'VAISAKH', PUTHIYIDAM DESOM,
KAYAMKULAM.

BY ADV. SRI.JIJO PAUL

RESPONDENTS: STATE & COMPLAINANT

1. STATE OF KERALA, REPRESENTED BY
THE CIRCLE INSPECTOR OF POLICE,
TOWN EAST POLICE STATION, THRISSUR-THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.
2. PRADEEP, S/O.NARAYANAN,
KUNNAPPASSERY HOUSE, NADUVILKARA DESOM,
VADANAPPILLY, THRISSUR DISTRICT.

BY PUBLIC PROSECUTOR SRI. PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 2690 OF 2006

Dated this the 30th day of November, 2006

ORDER

In this petition under Sec.482 of the Cr.P.C. the crux of the submission is that the matter is settled between the parties. The offence alleged is under Sec.392 of the IPC. The composition of a non-compoundable offence cannot by itself justify the prayer for quashing of the proceedings under Sec.482 of the Cr.P.C. Of course, it is true that in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) the Supreme Court has held that the provisions of Sec.320 of the Cr.P.C. do not fetter the inherent powers vested in this Court under Sec.482 of the Cr.P.C. That was an exceptional case where in the interests of matrimonial harmony the Supreme Court held that such jurisdiction can be invoked. The interests of justice can at times transcend interests of mere law and that is the rationale in the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) I am not persuaded to agree that any such circumstance exists in this case. The petitioner must

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resort to the ordinary and normal procedure of appearing before the learned Magistrate for discharge or pray for composition, if the charges are framed for compoundable offences only.

2. With the above observations, this Crl.M.C. is dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge