

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOMAS P.JOSEPH

FRIDAY, THE 29TH APRIL 2011 / 9TH VAISAKHA 1933

CRL.MC.NO. 1316 OF 2011()

**CC.9/2011 OF CHIEF JUDICIAL
MAGISTRATE COURT, THODUPUZHA**
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PETITIONER(S):

- 1. SHAMINSHA.S, S/O SHIHABUDHEEN(LATE),
PULINTHARAYIL HOUSE, VAIKOM P.O.,
KOTTAYAM DISTRICT.**
- 2. ZINEETH, W/O SHIHABUDHEEN(LATE),
PULINTHARAYIL HOUSE, VAIKOM P.O.,
KOTTAYAM DISTRICT.**

**BY ADV. SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.
(REPRESENTING THE SUB INSPECTOR OF POLICE,
THODUPUZHA POLICE STATION, THODUPUZHA).**
- 2. LIBUS P.BAVA, D/O P.H.BAVA,
PAZHEYARIYIL HOUSE, VANNAPURAM P.O.,
THODUPUZHA, IDUKKI DISTRICT.**

BY PUBLIC PROSECUTOR SHRI K.J. MOHAMMED ANZAR

ADV. SRI.S.SUDEESH KUMAR FOR R2

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29/04/2011, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

THOMAS P.JOSEPH, J.

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Crl. M.C. No. 1316 of 2011

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Dated this the 29th day of April, 2011

ORDER

Petitioners are accused in Crime No.769 of 2010 of Thodupuzha Police Station and C.C. No.9 of 2011 of the court of learned Chief Judicial Magistrate, Thodupuzha for offences punishable under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code. There was a matrimonial dispute between first petitioner and his wife, the second respondent which was settled as per Annexure-A2, agreement. As per the said agreement the first petitioner was to pay certain amount to the second respondent. It is stated, that the first installment out of the said amount was paid and for the second installment a cheque was issued to the second respondent. Second respondent presented that cheque but it was dishonoured for insufficiency of funds and that cheque was drawn on the account maintained by the second petitioner. Thereon second respondent filed a private complaint before the learned Chief Judicial Magistrate alleging commission of offences aforesaid. That complaint was forwarded to the police for investigation and after investigation the police

submitted Annexure-A3, final report. Learned Chief Judicial Magistrate has taken cognizance of the above offences and filed C.C. No.9 of 2011. Petitioners request to quash proceeding against them on the strength of a settlement reached with the second respondent. I have heard learned counsel for petitioner, second respondent and the learned Public Prosecutor.

2. Annexure-A2, is the agreement executed between the first petitioner and second respondent as per which the amount due to the second respondent was paid by Demand Draft (Annexure-A2[a] is the photocopy of that Demand Draft). Counsel on both sides confirmed settlement and authenticity of Annexure-A2, agreement executed between first petitioner and second respondent. Counsel for second respondent has confirmed receipt of the amount referred to in Annexure-A2, agreement and covered by Annexure-A2(a), Demand Draft. It is revealed that the dispute which is personal to and between the parties is settled. Hence I am inclined to allow this petition.

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Resultantly, Criminal Miscellaneous Case is allowed. Annexure-A3, final report in Crime No.769 of 2010 of Thodupuzha Police Station, cognizance taken thereon and proceeding against petitioners in C.C. No.9 of 2011 of the court of learned Judicial First Class Magistrate, Thodupuzha are quashed.

THOMAS P. JOSEPH, JUDGE.

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