

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

Crl.MC.No. 46 of 2015

ORDER IN CMP 334/2014 of J.M.F.C-1.,VARKALA
CRIME NO. 24/2014 OF ANCHUTHENGU POLICE STATION , THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

AMEER @ KOCHUKURUVAN, AGED 45 YEARS
S/O.ABDUL AZEEZ, KOOTIL VEEDU, ONNAMPALAM
NEDUMGANDA, NOW RESIDING AT KOCHUKADAPURAM
PUTHIYAPALAM, PERUMATHURA, THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENTS/STATE AND DE-FACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
ANCHUTHENGU POLICE STATION
REPRESENTED THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. NOUSHAD @ PODI, AGED 34 YEARS
S/O.ABDUL SALAM, KOOTIL VEDU, ONNAMPALAM
NEDUMGANDA, VAKKOM VILLAGE, THIRUVANANTHAPURAM
PIN-695308.

R2 BY ADV. SRI.A.K.RAJESH
R1 BY PUBLIC PROSECUTOR, SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
07-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PTITIONER'S EXHIBITS:

- ANNEX-A : CERTIFIED COPY OF THE COMPLAINT CMP.334/2014 FILED BY
THE 2ND RESPONDENT BEFORE THE JUDICIAL 1ST CLASS
MAGISTRATE COURT-1, VARKALA.
- ANNEX-B: CERTIFIED COPY OF THE FIR IN CRIME NO.24/2014 OF
ANCHUTHENGU POLICE STATION.
- ANNEX-C: AFFIDAVIT OF THE 2ND RESPONDENT/DE FACTO COMPLAINANT
STATING SETTLEMENT OF DISPUTE.

RESPONDENT'S EXHIBITS : NIL

// TRUE COPY //

PA TO JUDGE

P.UBAID, J.

Crl. M.C No.46 of 2015

Dated this the 7th day of January, 2015.

O R D E R

The petitioner herein is the sole accused in Crime No.24/2014 of the Anchuthengu Police Station of Thiruvananthapuram district, registered under Sections 452, 326, 324, 307 and 506(ii) of IPC on the complaint made by one Noushad @ Podi before the Judicial First Class Magistrate Court, Varkala. The said complaint was forwarded to the police for investigation under Section 156(3) Cr.P.C, and now investigation is in progress. The complainant Noushad is the second respondent herein. The petitioner seeks orders quashing the criminal proceeding on the ground that he and Noushad have come to terms amicably out of court. The de facto complainant Noushad has filed affidavit to the effect that he has settled the whole dispute which is purely personal in nature, that he stands adequately compensated by the petitioner, and he has no grievance or complaint now. I am well satisfied that the parties are closed relatives, and they have settled the dispute on the intervention of persons acceptable to both sides. On a reading of the complaint filed by the second respondent before the learned Magistrate I do

not find anything to attract Section 307 IPC. What is available is only some hypothetical statement. Of course, it is true that he had sustained some injuries, but the dispute now stands settled. In so many decisions the Hon'ble Supreme Court has held that even in cases involving non compoundable offences, the High Court can quash prosecution; be it at the crime stage, or at the trial stage, or even at the appellate or revisional stage, if the parties have really settled the whole dispute amicably, and continuance of prosecution will not serve any purpose. Here I find a real and genuine settlement between the parties who are close relatives, and I find that the petitioner has adequately compensated the de facto complainant who sustained injuries in the incident. In such a situation, continuance of the further proceeding in the crime will cause harm and hardship to both the parties. This is not in fact a case of attempt to cause murder. This is only a case of assault in which the victim sustained injuries, and the said victim stands compensated on amicable settlement.

In the result, this petition is allowed. The FIR and further proceeding in crime No.24/2014 of the Anchuthengu Police Station will stand quashed under Section 482 Cr.P.C.

P.UBAID,
JUDGE