

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

Crl.MC.No. 68 of 2015 ()

**CC 1670/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDRUG
CRIME NO. 385/2013 OF BEKAL POLICE STATION , KASARGOD DISTRICT**
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PETITIONER/ACCUSED:

**MATHEW, AGED 51 YEARS
S/O.K.J. THOMAS, RESIDING AT MUNDIYANIKKAL HOUSE
BATTATHUR, PANAYAL VILLAGE, KASARAGOD DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENTS/STATE:

- 1. THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER
BEKAL POLICE STATION, KASARAGOD DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. K. JAYAN, S/O.K. KRISHNAN, RESIDING AT
CHAMAYAM HOUSE, THERVAYAL
NILESHWAR VILLAGE AND POST, KASARAGOD TALUK
KASARAGOD DISTRICT-671314.**

R1 BY PUBLIC PROSECUTOR SMT. S.HYMA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CRL.M.C.68/2015

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE A1	CERTIFIED COPY OF THE FIR IN CRIME NO.385/2013 OF BEKAL POLICE STATION
ANNEXURE A2	CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.385/2013 OF BEKAL POLICE STATION
ANNEXURE A3	CERTIFIED COPY OF THE STATEMENT GIVEN BY THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT DATED 11.04.2013
ANNEXURE A4	CERTIFIED COPY OF THE MEMO OF EVIDENCE IN CRIME NO.385/2013 OF BEKAL POLICE STATION

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.68 of 2015

Dated this the 22nd day of January, 2015

O R D E R

The petitioner herein is the sole accused in C.C.No.1670/2013 of the Judicial First Class Magistrate Court-II, Hosdurg. He seeks orders quashing the prosecution on the ground that during the investigation, the complainant had made a statement to the police that he does not want to prosecute the matter, and he has no grievance or complaint, but Ignoring this statement, the police submitted final report in court. The defacto complainant is the 2nd respondent herein. He remained absent in spite of notice. The only ground on which the petitioner seeks orders is that pending the investigation the defacto complainant had given a statement to the police that he does not want to prosecute the matter. But it is submitted from the side of the prosecution that later, the complainant deviated from his statement and wanted to prosecute the matter. In such circumstance, the police submitted final report in court. I find that in the present circumstances where materials are there in the proceeding to constitute the offence under Sections 341 and 323 IPC, this Court cannot quash the prosecution. If there is a real

settlement between the parties, they can very well approach the trial court to have the offences compounded under Section 320 Cr.P.C. The offences are compoundable under the law. Hence, this petition is closed with observation that the parties will have to approach the trial court, if there is a settlement, under Section 320 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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