IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

Crl.MC.No. 81 of 2015 ()

CRIME NO. 1075/2011 OF HOSDURG POLICE STATION , KASARGOD DISTRICT

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PETITIONERS/ACCUSED 1-13:

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1. **SUBAIR, AGED 38 YEARS**
   S/O.MUHAMMED, RESIDING AT VENGACHERY HOUSE, CB ROAD
   CHAMUNDIKUNNU, CHITHARI VILLAGE, HOSDURG TALUK
   KASARAGOD DISTRICT.

2. **C.H.ISAHAQ, AGED 25 YEARS**
   S/O.KUNHAHAMMED, RESIDING AT CHAMUNDIKUNNU
   CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

3. **A.P.ABDUL BASHEER, AGED 48 YEARS**
   S/O.A.P.ABBAS, RESIDING AT MUNAYANCODE, CHAMUNDIKUNNU
   CHITHARI VILLAGE.

4. **M.HYDER, AGED 22 YEARS**
   S/O.ABDULLA, RESIDING AT CHAMUNDIKUNNU
   CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

5. **C.H.NISSAR, AGED 33 YEARS**
   S/O.IBRAHIM, RESIDING AT EVK HOUSE, CHAMUNDIKUNNU
   CHITHARI VILLAGE, NORTH CHITHARI, HOSDURG TALUK
   KASARAGOD DISTRICT.

6. **M.HASSAN, AGED 39 YEARS**
   S/O.ABDUL RAHIMAN, RESIDING AT CHAMUNDIKUNNU
   CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

7. **C.H.AZIZ, AGED 38 YEARS**
   S/O.KUNHAHAMMED, RESIDING AT C.H.HOUSE, CHAMUNDIKUNNU
   CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

8. **C.H.MUHAMMED ASHARAF, AGED 42 YEARS**
   S/O.ABDULLA, RESIDING AT FAIZAL MANZIL, CHITHARI
   CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

9. **C.H.MUJEEV REHIMAN, AGED 26 YEARS**
   S/O.ABOOBACKER, RESIDING AT CHAMUNDIKUNNU
   CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

10. NUHMAN ALI, AGED 22 YEARS
S/O.ISAHAK, RESIDING AT BAITHUL MUNNA HOUSE
CHAMMUNDIKUNNU, CHITHARI VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT.

11. ALI HYDER, AGED 18 YEARS
S/O.BASHEER, RESIDING AT VERLLIKKOTHU, CHAMMUNDIKUNNU
CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

12. SHAMSEER A.V., S/O.ABBAS, RESIDING AT
KOTTILANGADU, CHAMMUNIDKUNNU
CHITHARI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT.

13. MUHAMMED KUNHI @ MAMMAD, AGED 49 YEARS
S/O.ABDULLA, RESIDING AT MUNAYAMCODE, CHITHARI VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENTS/STATE:
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1. THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER
HOSDURG POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

2. JAYAN, AGED 45 YEARS
S/O.KRISHNAN, RESIDING AT CHIRAKKAL HOUSE
RAVANESHWARAN P.O., CHITHARI VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT-671316.

3. V.KUNHIRAMAN, AGED 52 YEARS
S/O.KOTTAN, RESIDING AT NITHIN NIVAS, RAMAGIRI
RAVANESHWARAM, CHITHARI VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT-671316.

R2,R3 BY ADV. SMT.BINDUMOL JOSEPH
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02-03-2015, ALONG WITH CRMC. 80/2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 81 of 2015 ()

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE 1 : TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.1075/2011 OF HOSDURG POLICE STATION.

ANNEXURE 2 : TRUE COPY OF THE REPORT DT.12-10-11 SUBMITTED BY R1 BEFORE THE LEARNED JFCM I, HOSDURG.

ANNEXURE 3 : TRUE COPY OF THE REPORT DT.16-11-13 SUBMITTED BY R1 BEFORE THE JFCM I HOSDURG.

ANNEXURE 4 : AFFIDAVIT DT.29-11-14 SWORN IN BY R2.

ANNEXURE 5: AFFIDAVIT DT.29-11-14 SWORN IN BY R3.

ANNEXURE 6: TRUE COPY OF THE REPORT DT.5-11-11 SUBMITTED BY R1 BEFORE THE LEARNED JFCM I HOSDURG IN CRIME 1075/11 OF HOSDURG POLICE STATION.

ANNEXURE 7: TRUE COPY OF THE REPORT DT.26-11-11 SUBMITTED BY R1 BEFORE THE LEARNED JFCM I HOSDURG IN CR 1075/2011 OF HOSDURG POLICE STATION.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C. No.81 of 2015

Dated this the 2nd day of March, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No. 1075/2011 of the Hosdurg Police Station, registered under Sections 153(A) and 326 IPC on the complaint of one Jayan. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Jayan is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint The other person who sustained injuries in the alleged incident is the respondent No.3 in this proceeding. He has also filed affidavit to the effect that he has settled the dispute with the accused and he has no grievance or complaint now.

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 revision stage; if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.1075/2011 of the Hosdurg Police Station, will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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