

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Crl.MC.No. 249 of 2015

SC 585/2014 of ASSISTANT SESSIONS COURT, MANJERI
CRIME NO. 299/2013 OF PANDIKAD POLICE STATION , MALAPPURAM

PETITIONERS/ACCUSED:

1. ABDURAHIMAN, AGED 57 YEARS
S/O.KUNJIPOKKER, MATTAYI HOUSE, KODASSERI
CHEMBRASSERI, MALAPPURAM DISTRICT.
2. ABDUL MAJEED, AGED 19 YEARS
S/O.ABDURAHIMAN, MATTAYI HOUSE, KODASSERI
CHEMBRASSERI, MALAPPURAM DISTRICT.
3. ABDUL BASID, AGED 25 YEARS
S/O.ABDURAHIMAN, MATTAYI HOUSE, KODASSERI
CHEMBRASSERI, MALAPPURAM DISTRICT.
4. JAFER, AGED 31 YEARS
S/O.ABDURAHIMAN, MATTAYI HOUSE, KODASSERI
CHEMBRASSERI, MALAPPURAM DISTRICT.
5. ABDUL JAISID, AGED 20 YEARS
S/O.MOOSA, MATTAYI HOUSE, KODASSERI
CHEMBRASSERI, MALAPPURAM DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/STATE AND DE-FACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031
2. NIYAS, AGED 21 YEARS
S/O.UMMER, THACHANGODAN HOUSE
PANDIKKAD AMSOM - 676 521, MELANGADI
MALAPPURAM DISTRICT.

R2 BY ADV. SRI.K.C.ANTONY MATHEW
R1 BY PUBLIC PROSECUTOR, SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 249 of 2015

APPENDIX

PETITIONERS' EXHIBITS

ANNEX.A1- TRUE COPY OF THE CHARGE SHEET IN CRIME NO.299/2013 OF
PANDIKKAD POLICE STATION.

ANNEX.A2 - THE AFFIDAVIT SWORN IN BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS : NIL

// TRUE COPY //

PA to Judge

P.UBAID, J.

Crl. M.C No.249 of 2015

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Crl. M.C No.250 of 2015

Dated this the 15th day of January, 2015.

O R D E R

Two crimes, as case and counter, happened to be registered by the Pandikkad Police in Malappuram district in connection with an incident of assault and open fight involving two groups, as Crime No.298/2013 and Crime No.299/2013. The petitioners in Crl.M.C 249/2015 are the accused in Crime No.299/2013 now pending before the learned Assistant Sessions Judge, Manjeri as S.C No.585/2014. The said crime was registered under Sections 143, 147, 148, 341, 323, 324, 427, 308 r/w 149 of IPC, on the complaint of one Niyas who is the second respondent in Crl.M.C 249/2015. The petitioners in Crl.M.C 250/2015 are the accused in crime No. 298/2013 of Pandikkad Police Station which is now pending before the same court as S.C No.694/2014. This crime was registered under Sections 143, 147, 148, 341, 323, 324, 427, 452, 308 r/w 149 IPC on the complaint of one Abdul Rahiman, that persons belonging to the other group assaulted him and his friends

Abdul Majid, Jafer, Abdul Basid and Abdul Jaisid. The complainant Abdul Rahiman and the others who sustained injuries are the respondents 2 to 6 in Crl.M.C 250/2015. Now both the parties seek orders quashing the two prosecutions on the ground of amicable settlement made by the parties out of court, on the intervention of persons acceptable to both sides. Of course, I find on a perusal of the case records in both the crimes that the police incorporated Section 308 IPC on the basis of some purely hypothetical statement made by the injured persons on both sides. I find that this is simply a case of assault involving open fight between two groups of persons in connection with some football tournament. Now the parties have come to terms amicably, and they are on quite cordial terms. The injured persons on both sides have filed affidavit to the effect that the whole dispute now stands settled and resolved, and that they have no complaint or grievance. In such a situation it is quite definite that continuance of the prosecution will not serve any purpose, other than wasting the precious time of the court, because nobody will support the prosecution, if the two cases go to trial. The Hon'ble Supreme court has held in so many decisions even in cases involving non

compoundable offences, the prosecution can be quashed if the parties have really settled the whole dispute, and continuance of prosecution will not serve any purpose.

In the result, these two petitions are allowed. The prosecution against the petitioners in these two proceedings now pending before the learned Assistant Sessions Judge, Manjeri in S.C No.585/2014 and S.C No.694/2014 will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioners in the two proceedings will stand released from such prosecution, and the bail bond, if any executed, by them will stand discharged.

P.UBAID,
JUDGE