

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Crl.MC.No. 339 of 2015 ()

IN CP 48/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT - I, KASARAGOD

PETITIONER(S):

- 1. MUHAMMED KUNHI @ MAMMU AGED 48 YEARS
S/O.UKKAS AMU, JASEELA MANZIL, STAR NAGAR
BEVINJA, CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 2. MAHIN
S/O.UKKAS AMU, JASEELA MANZIL, STAR NAGAR
BEVINJA, CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 3. K.SHOUKATHALI
S/O.AMU HAJI, JASEELA MANZIL, STAR NAGAR
BEVINJA, CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 4. NAMSHAD @ ICHAMU
S/O.UKKAS AMU HAJI, JASEELA MANZIL, STAR NAGAR
BEVINJA, CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 5. M.D.MEHAFOOS
S/O.M.D.ISMAIL, MUNDANKULAM, BEVINJA
CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 6. K.MUHAMMAD KUNHI
ABDUL KHADAR HAJI, BERKA, BENGLA VALAPPU
STAR NAGAR, CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 7. MUSTHAF K
ABDUL KHADAR HAJI, UKKAS HOUSE, STAR NAGAR
CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 8. YOOSUF
UKKAS ANDRU, NISAF MANZIL, STAR NAGAR
CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 9. NASEEB K
K.ANDRU, NISAF MANZIL, STAR NAGAR
CHENGALA VILLAGE, KASARAGOD DISTRICT.**

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10. AHAMMAD FANAS
MUHAMMAD KUNHI, FANAS MANZIL, BEVINJA
CHENGALA VILLAGE, KASARAGOD DISTRICT.
 - 11.K.V SIDDIQUE, AGED 33 YEARS
BAPPANKUTTY, SAREENA MANZIL
BERKA, CHENGALA VILLAGE, KASARAGOD DISTRICT
 12. MAJEED
C.N.ABBAS, C.M.HOUSE, STAR NAGAR
CHENGALA VILLAGE, KASARAGOD DISTRICT.
 13. HASSAN NISAF
UKKAS ANDRU, NISAF MANZIL, STAR NAGAR
CHENGALA VILLAGE, KASARAGOD DISTRICT.
 14. MUHAMMAD KUNHI T @ SECRETARY MUHAMMED KUNHI
AHAMMED @ AMU, STAR NAGAR, CHENGALA VILLAGE
KASARAGOD DISTRICT.
 15. BADARUDEEN
UKKAS ABDULKHADAR HAJI, STAR NAGAR, CHENGALA VILLAGE
KASARAGOD DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENT(S):

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1. A.T.ABDUL RAZAK
S/O.ABDUL RAHIMAN HAJI, ADIYATHOTTY HOUSE
KALLUMKOOTTAM, BEVINJA, CHENGALA VILLAGE
KASARAGOD DISTRICT.
 2. ASIF A.T
S/O.ASHRAF, ADIYATHOTTY HOUSE, BEVINJA
CHENGALA VILLAGE, KASARAGOD DISTRICT.
 3. AHAMMED ASFAL
S/O.HAMSA, THOTTIYIL HOUSE, BEVINJA
CHENGALA VILLAGE, KASARAGOD DISTRICT.
 4. MOHAMMED KUNHI T
S/O.ABDUL KHADER, THOTTIYIL HOUSE, BEVINJA
CHENGALA VILLAGE, KASARAGOD DISTRICT.
 5. STATE OF KERALA
THROUGH STATION HOUSE OFFICER
VIDYANAGAR POLICE STATION (CRIME NO.563/2013)
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1-4 BY ADV. SRI.LIJIN JOSEPH
R5 BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 339 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1. COPY OF THE FIR AND FI STATEMENT DATED 20.09.13 IN CRIME NO.563 OF 2013 OF VIDYANAGAR POLICE STATION.

ANNEXURE A2. COPY OF THE FINAL REPORT DATED 24.01.14 IN CRIME NO.563/2013 AS NUMBERED AS CP 48 OF 2014 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT 1, KASARAGOD.

ANNEXURE A3. COPY OF THE AFFIDAVIT DATED 12.01.15 SIGNED BEFORE AN ADVOCATE NOTARY BY THE DEFACTO COMPLAINANT / RESPONDENT NO.1

ANNEXURE A3(A).COPY OF THE AFFIDAVIT DATED 12.01.15 SIGNED BEFORE AN ADVOCATE NOTARY BY THE INJURED WITNESS / RESPONDENT NO.2.

ANNEXURE A3(B).COPY OF THE AFFIDAVIT DATED 12.01.15 SIGNED BEFORE AN ADVOCATE NOTARY BY THE INJURED WITNESS / RESPONDENT NO.3.

ANNEXURE A3(C).COPY OF THE AFFIDAVIT DATED 12.01.15 SIGNED BEFORE AN ADVOCATE NOTARY BY THE INJURED WITNESS / RESPONDENT NO.4.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 339 of 2015

Dated this the 20th day of January, 2015.

O R D E R

The petitioners herein are the accused No.1 to 15 in C.P No.48/2014 of the Judicial First Class Magistrate Court -I, Kasaragod. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 143, 147, 148, 341, 324, 506(ii), 427, 308 r/w 149 of IPC, on the complaint of one Abdul Razak who is the first 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 now. The other persons who sustained injuries in the alleged incident are the respondents No.2 to 4 in this proceeding. They have also filed affidavit to the effect that they have settled the whole dispute with the accused and they have no grievance or complaint now.

2. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution in pending proceedings, if the

parties have really settled the whole dispute amicably out of court, and continuance of the proceedings will not serve any purpose in such a circumstance of amicable settlement. Here, I find a real and genuine case of settlement between the parties. This is not a case involving any public interest or public issue. The parties have come to terms amicably on the intervention of persons acceptable to both sides, and I am satisfied that the parties are now on quite cordial terms. On an examination of the records, I find that Section 308 IPC was in fact incorporated in the FIR by the police on the basis of a purely hypothetical statement. Continuance of the prosecution will not serve any purpose, other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.P No.48 of 2014 of the Judicial First Class Magistrate's Court, Kasargod will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

P.UBAID,
JUDGE