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. 361 of 2015

IN SC 172/2014 of ADDL. SESSIONS COURT, IRINJALAKUDA

CRIME NO. 536/2013 OF KODUNGALLUR POLICE STATION , TRISSUR

PETITIONERS/ACCUSED 1 TO 4:
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1. KANNAN, AGED 28 YEARS,
S/O.VELAYUDHAN, THARAYIL HOUSE, EDAMUKKU DESOM,
METHALA VILLAGE, KANDAMKULAM P O, KODUNGALLUR TALUK

2. MOIDEEN SHAM, AGED 30 YEARS,
S/O.ABDUL KAREEM, ERAMANGALATH HOUSE, METHALA VILLAGE
KODUNGALLUR

3. FAISAL, AGED 29 YEARS,
S/O.MUHAMMADALI, CHALILYIL HOUSE, EDAMUKKU DESOM,
METHALA VILLAGE, KODUNGALLUR

4. SHEMEER, AGED 32 YEARS,
S/O.SAGEER, PUNNAYAKKAL HOUSE, PAY BAZAR DESOM,
ERIYAD VILLAGE, KODUNGALLUR TALUK

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENTS/DE FACTO COMPLAINANT/STATE:
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1. STATE OF KERALA
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM

2. THE SUB INSPECTOR OF POLICE
KODUNGALLUR POLICE STATION - 680 001

3. SAJESH, AGED 30 YEARS,
S/O.SADANANDAN, PAZHUKUNNATH HOUSE,
KADUKKACHUVADU DESOM, METHALA VILLAGE,
KODUNGALLUR TALUK - 680 001

4. SHANAVAS,
S/O.ALI, KOLLIKKATHARA HOUSE, KADUKKACHUVADU DESOM,
METHALA VILLAGE, KODUNGALLUR TALUK - 680 001

R3 & 4 BY ADV. SRI.M.V.ANANDAN
R1 & R2 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. 361 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A:-CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO 536/2013 SUBMITTED BEFORE THE JFCM COURT, KODUNGALLUR.

ANNEXURE B:-ORIGINAL OF THE AFFIDAVIT SWORN BY THE DEFACTO COMPLAINANT/RESPONDENT NO 3

ANNEXURE C:-ORIGINAL OF THE AFFIDAVIT SWORN BY THE CW2/ RESPONDENTS 4

RESPONDENTS'ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No. 361 of 2015

Dated this the 20th day of January, 2015

O R D E R

The petitioners herein are the accused Nos.1 to 4 in S.C No.172/2014 of the Additional Assistant Sessions Court, Irinjalakuda. 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 341, 323 and 308 r/w 34 of the Indian Penal Code, on the complaint of one Sajesh, who is the 3rd 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.

2. The other person who sustained injuries in the alleged incident is the 4th respondent in this proceeding. He has also filed affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint now.

3. 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 further prosecution 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. In such a situation, 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. On a perusal of the records, I find that Section 308 of the Indian Penal Code was incorporated by the police on the basis of some hypothetical statement.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C No.172/2014 of the Additional Assistant Sessions Court, Irinjalakuda, 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

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