

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

Crl.MC.No. 414 of 2015 ()

**IN CP 94/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II,HOSDRUG
CRIME NO. 347/2014 OF BEKAL POLICE STATION , KASARGOD**

PETITIONER(S)/ACCUSED:

- 1. GOPAKUMAR M. @ GOPU, AGED 33 YEARS
S/O.K.P.KUNJIKANNAN, MOORIYANAM HOUSE, PERIYA VILLAGE
KASARAGOD DISTRICT.**
- 2. MAHESH,
S/O.BHASKARAN, AGED 24 YEARS, SABARI NILAYAM HOUSE
PARAOOAJATTU, PERIYA GRAMAM, KASARAGOD DISTRICT.**
- 3. DHAMODHARAN,
S/O.LATE KOTTAN, MANGALAKKADAN HOUSE, MRLSI KALAYOTTU
KANGIRADUKKAVU, PERIYA, KASARGODU DISTRICT.**
- 4. MANI, AGED 36 YEARS
S/O.LATE KOTTAN, MAKKALAKADAN HOUSE, MELAI KALYOTTU
KANGIRADUKKAM, PERIYA, KASARGODU DISTRICT.**
- 5. GENARDHANAN @ THAMBAI, AGED 28 YEARS
S/O.GOVINDHAN, PULLUMoola HOUSE, PERIYA
KASARGODU DISTRICT.**
- 6. JOSHI @ SARATH LAL, AGED 19 YEARS
S/O.SATHYANARAYANAN, KURANGARA HOUSE, KALYOTTU
PERIYA, KASARGODU DISTRICT.**
- 7. NANTHU @ NANTHAKUMAR,
S/O.KUMARAN, KUTTIYADATHAM HOUSE, KALYOTTU
PERIYA, KASARGODU DISTRICT.**
- 8. RAVI M. @ KUNJEM RAVI,
S/O.LATE KOTTAN, MELAI KALLYOTTU, KANGIRADUKKAN
PERIYA, KASARGODU DISTRICT.**
- 9. BHASKARAN,
S/O.LATE KINJAMBU, SABARINILAYAM, PARAPPAKETTU
PERIYA, KASARGODU DISTRICT.**

BY ADV. SRI.SUNNY MATHEW PALAKKATTUKUNNEL

RESPONDENT(S)/DEFACTO COMPLAINANT & STATE:

1. SREEDHARAN,
S/O.ELUMBAN, ANCHULADIKAM, PERIYA POST
PERIYA VILLAGE, HOSDURG THALUK.
 2. MURALI,, AGED 34 YEARS
S/O.KUNHIRAMAN, ANCHILADUKAM, PERIYA VILLAGE
HOSDURG TALUK.
 3. MANIKANDAN,
S/O.CHOYI, ALAKKOD, PALLIKARA POST
PALLIKARA VILLAGE, HOSDURG TALUK, KASARGOD.
 4. SUB INSPECTOR OF POLICE,
BAKKAL POLICE STATION.
 5. CIRCLE INSPECTOR OF POLICE,
BAKKAL POLICE STATION.
 6. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
COCHIN-31.
- R1-R3 BY ADV. SRI.C.C.ANOOP
R4-6 BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 414 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1 : TRUE COPY OF THE FINAL REPORT IN CP.94/14.

**ANNEXURE A2 : TRUE COPY OF THE AFFIDAVIT SWORN BY THE RESPONDENT 1 TO
3.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 414 of 2015

Dated this the 2nd day of February, 2015.

O R D E R

The petitioners herein are the 9 accused in C.P No. 94/2014 of the Judicial First Class Magistrate Court -II, Hosdurg. 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, 323, 324, 452, 427, 307 r/w 149 of IPC, on the complaint of one Sreedharan, 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 2 and 3 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. On a perusal of the case records I find that there is absolutely no material to attract Section 307 IPC in this case. None

of the injured persons had sustained any serious injury in the alleged incident. The wound certificates will show that they had sustained only very minor injuries in the alleged incident. I find that Section 307 IPC was incorporated by the police on the basis of some hypothetical statement. This is a simple instance of assault involving, at the most, the offence under Section 324 IPC. Anyway, the whole dispute now stands settled, and the parties are now on quiet cordial terms. It is submitted that a counter case also settled amicably.

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. 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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.P No.94/2014 of the Judicial First Class

Magistrate's Court-I, Hosdurg 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

sab