

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

Cr1.MC.No. 472 of 2015

IN S.C NO.329/2014 IN C.P NO.45/2013 OF THE ASSISTANT SESSIONS
COURT II, NORTH PARAVOOR

CRIME NO. 1467/2009 OF KALAMASSERY POLICE STATION, ERNAKULAM

PETITIONERS/ACCUSED 1 TO 8:

1. JEEVAN J KUMAR, AGED 26 YEARS,
S/O.JAYAKUMAR, PERUMANA HOUSE, ARANADU KARA,
KULASHEKARAPURAM VILLAGE, KOLLAM DISTRICT.
2. ROSHITH, AGED 26 YEARS,
S/O.SIVARAMAN, ANASWARA HOUSE, PUNNASSERY P.O.
KOZHIKODE DISTRICT.
3. SIDDARTH, AGED 26 YEARS,
S/O.SURENDRAN, KUNNALATH HOUSE, ATHIKUZH, Y,
CHITTOOR, PALAKKAD DISTRICT.
4. DON, AGED 25 YEARS,
S/O.STEPHEN FERNANDEZ, KAVITHA HOUSE, TC 13/320,
PRA 199 B, AYYANKALI ROAD, PATTOOR,
VANCHIYOOR, THIRUVANANTHAPURAM DISTRICT.
5. ALAN, AGED 25 YEARS,
S/O.REHUNARAJ, GILGAR HOUSE, KRA-A/137,
KUDAPPANAKUNNU, THIRUVANANTHAPURAM DISTRICT.
6. VYSHAKH, AGED 26 YEARS,
S/O.GOPINATHAN, NAMITHAS HOUSE, ARAYOLAM,
NARIKODE, KOTTALA P.O., KANNUR DISTRICT.
7. IRSHAD AHAMED, AGED 26 YEARS,
S/O.SALIM, KOLLASSERY HOUSE, TC 39/1274,
ATTAKULANGARA, CHALA,
THIRUVANANTHAPURAM DISTRICT.
8. GOKUL P.BABU, AGED 26 YEARS,
S/O.BAHULEYAN, TC 11/1058, WATTS LANE,
NANDANCODE, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.S.NIKHIL SANKAR
SRI.T.P.MOHAN RAJ

RESPONDENTS/DEFACTO COMPLAINANT/CO INJURED:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.
 2. THE SUB INSPECTOR OF POLICE
KALAMASSERY POLICE STATION, ERNAKULAM.
 3. K.P.AYUSH, AGED 27 YEARS,
S/O.PAREETH PILLA, KARUNNAPPILLY HOUSE,
KARIPUZHA,
PANAYIKULAM KARA, ALANGAD VILLAGE,
PARAVUR TALUK,
ERNAKULAM DISTRICT.
 4. MOHAMMED SAFEER, AGED 26 YEARS,
S/O.MOHAMMED BASHEER, THATTARKUZHI HOUSE,
PULINJODU KARA, PERINJANAM VILLAGE,
THRISSUR DISTRICT.
 5. TINISH KRISHNAN, AGED 26 YEARS,
S/O.K.P.KRISHNAN, KRISHNAKORE HOUSE,
KORANATTUKARA,
PUZHAKAL VILLAGE, THRISSUR DISTRICT.
- R3,4,5 BY ADV. SHYAMDEEP S SHENOY
R3,R4,R5 BY ADV. SMT.C.S.GEETHU
R3,R4,R5 BY ADV. SRI.NIKHIL BERNY
R1 & R2 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE I: COPY OF THE CHARGE SHEET DATED 30/11/09 IN S.C.NO. 329/2014 IN C.P.NO. 45/2013 ON THE FILE OF THE ASSISTANT SESSIONS COURT-II, NORTH PARAVOOR, IN CRIME NO. 1467 OF 2009 OF KALAMASSERY POLICE STATION, ERNAKULAM DISTRICT.

ANNEXURE II: COPY OF THE FIRST INFORMATION REPORT DATED 12/10/09 IN S.C.NO. 329/2014 IN C.P.NO. 45/2013 ON THE FILE OF THE ASSISTANT SESSIONS COURT-II, NORTH PARAVOOR, IN CRIME NO. 1467 OF 2009 OF KALAMASSERY POLICE STATION, ERNAKULAM DISTRICT.

ANNEXURE III: COPY OF THE AFFIDAVIT FILED BY THE 3RD RESPONDENT/DE FACTO COMPLAINANT.

ANNEXURE IV: COPY OF THE AFFIDAVIT FILED BY THE 4TH RESPONDENT/CO INJURED.

ANNEXURE V: COPY OF THE AFFIDAVIT FILED BY THE 5TH RESPONDENT/CO INJURED.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No. 472 of 2015

Dated this the 23rd day of January, 2015

O R D E R

The petitioners herein are the eight accused in S.C No.329/2014 of the Additional Assistant Sessions Court, North Paravoor. 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, 144, 147, 148, 323, 324 and 308 r/w 149 of the Indian Penal Code on the complaint of one K.P.Ayush 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 persons who sustained injuries in the alleged incident are the respondents Nos.4 and 5 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.

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 the 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 case 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.329/2014 of the Additional Assistant Sessions Court, North Paravoor 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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