

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. 505 of 2015 ()

**IN CP 43/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT - I, PUNALUR
CRIME NO. 1641/2013 OF ANCHAL POLICE STATION, KOLLAM**

PETITIONER(S)/PETITIONERS/ACCUSED:

- 1. ANEESH K.UMMEN AGED 20 YEARS
S/O KOCHUMMEN, KOCHUVILA VEEDU, AYOOR
EDAMULAKKAL VILLAGE, KOLLAM DISTRICT.**
- 2. SHAMNAD AGED 19 YEARS
S/O VAHID, S.S.MANZIL, KARALIKONAM
ELAMADU MURI, ELAMADU VILLAGE, KOLLAM DISTRICT.**
- 3. ABIN VARGHESE AGED 19 YEARS
S/O GHEEVARGHESE, PARAYADI VEEDU, MANNOOR MURI
KOTTUKKAL VILLAGE, KOLLAM DISTRICT.**
- 4. MUHAMMED SHAN AGED 19 YEARS
S/O HABEEBULLA, BISMILLA MANZIL, PERUVANTHODU
AKKAL MURI, ELAMADU VILLAG, KOLLAM DISTRICT.**
- 5. CHANDU BOBAN AGED 19 YEARS
S/O BOBAN, MURUKAN HOUSE, VAYYANAM MURI
ITTIVA VILLAGE, KOLLAM DISTRICT.**

**BY ADVS.SRI.K.SIJU
SMT.S.SEETHA**

RESPONDENT(S)/RESPONDENTS/DE-FACTO COMPLAINANT & STATE:

- 1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
ANCHAL POLICE STATION, THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA.**
- 2. ANAND S.BABU, AGED 19 YEARS
S/O SURESH BABU, ANAND BHAVAN, THAZHAMEL MURI
ANCHAL VILLAGE, KOLLAM DISTRICT-691306.**
- 3. GIREESH, AGED 19 YEARS
S/O DINESH, THACHUMANDIRAM, ALUMMOODU
NEAR MOSQUE, EROOR VILLAGE, KOLLAM DISTRICT-691312.**

**R2 & 3 BY ADV. SRI.A.MUHAMMED RAFFI
R1 BY PUBLIC PROSECUTOR SMT. P.MAYA**

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

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE 1: TRUE COPY OF FIR WITH FIS IN CRIME NO.1641/2013 OF ANCHAL POLICE STATION.

ANNEXURE 2: THE COPY OF FINAL REPORT IN CRIME NO.1641/2013 OF ANCHAL POLICE STATION.

ANNEXURE 3: THE COPY OF WOUND CERTIFICATE OF 2ND RESPONDENT DATED 26.9.2013.

ANNEXURE 4: THE COPY OF WOUND CERTIFICATES OF THE 3RD RESPONDENT DATED 26.9.2013.

ANNEXURE 5: THE COPY OF AFFIDAVIT SWORN BY THE 2ND RESPONDENT REGARDING THE COMPROMISE DATED 9.10.2014.

ANNEXURE 6: THE COPY OF AFFIDAVIT SWORN BY THE 3RD RESPONDENT REGARDING THE COMPROMISE DATED 9.10.2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 505 of 2015

Dated this the 2nd day of February, 2015.

O R D E R

The petitioners herein are the 5 accused in C.P No.43/2014 of the Judicial First Class Magistrate Court-I, Punalur. 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, 294(b), 308 r/w 149 IPC, on the complaint of one Anand who is the second 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 person who sustained injuries in the alleged incident is the respondent No.3 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.

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. On a perusal of the case records I find that Section 308 IPC was in fact incorporated by the police purely on the basis of some hypothetical statement. The respondents 2 and 3 had not sustained any visible injury in the alleged incident. Anyway, the whole dispute now stands settled. 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.43/2014 of the Judicial First Class Magistrate's Court, Punalur 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