

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Crl.MC.No. 640 of 2015 ()

CRIME NO. 289/2014 OF CHANDERA POLICE STATION,KASARGOD DISTRICT

PETITIONER(S)/ACCUSED:

1. SUDHEESH.P, AGED 26 YEARS,
S/O.KUNHIRAMAN, EBRAN HOUSE, KODAKKAD VILLAGE,
P.O.PUTHILOTT, HOSDURG TALUK, KASARAGOD.
2. ABHILASH, AGED 22 YEARS,
S/O.LATE K.CHANDRAN, ELATTU HOUSE, OTHANKARA,
CHERUVATHUR VILLAGE, HOSDURG TALUK, KASARAGOD.
3. SUJESH, AGED 21 YEARS,
S/O.SURENDRAN, EDUPPIL HOUSE, OTHANKARA,
CHERUVATHUR VILLAGE, HOSDURG TALUK, KASARAGOD.
4. SHAJAHAN, AGED 21 YEARS,
S/O.A.C.AHAMMED HAJI, MAYINGATTU HOUSE, UZHINJADI,
CHERUVATHUR VILLAGE, KAITHAKKAD.P.O., HOSDURG TALUK,
KASARAGOD.
5. SAMEER A.C, AGED 22 YEARS,
S/O.MUHAMMED, BANASHA MANZIL, PAYYANGI,
CHERUVATHUR VILLAGE, CHERUVATHUR P.O.,
HOSDURG TALUK, KASARAGOD.
6. ASHARAF, AGED 24 YEARS,
S/O.SHAHUL HAMEED, ASHARAF MANZIL, PAYYANGI,
CHERUVATHUR VILLAGE, CHERUVATHUR.P.O.,
HOSDURG TALUK, KASARAGOD.

BY ADV. SRI.A.ARUNKUMAR

RESPONDENT(S)/COMPLAINANT/STATE:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.PIN- 682 031.
2. SHAJI JOSEPH, AGED 38 YEARS, S/O.JOSEPH,
RESIDING AT THALAKANI, KOTTIYOOR VILLAGE,
KANNUR DISTRICT.PIN- 670 651.

R1 BY PUBLIC PROSECUTOR SMT. S.HYMA
R2 BY ADV. SRI.V.MADHUSUDHANAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

sts

Crl.MC.No. 640 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A1- A TRUE COPY OF THE F.I.R IN CRIME NO.289 OF 2014 OF CHANDERA
POLICE STATION, KASARAGOD DISTRICT.**

**ANNEX AII- A TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND
RESPONDENT ENDORSING THE FACTUM OF SETTLEMENT.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.UBAID, J.

Crl.M.C No.640 of 2015

Dated this the 11th March, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.289/2014 of Chandera Police Station, registered under Section 395 IPC on the complaint of one Shaji Joseph. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant, Shaji Joseph is the 2nd 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.

2. On a perusal of the final report and the First Information Statement, I find that this is not exactly a case of dacoity. The real object of the petitioners was assault on two persons. When one of them escaped, three of the accused followed him, and the other two assaulted the first informant and took some money from his pocket. What is revealed at the most is in fact robbery committed by two of the petitioners and not all of them. Any way, the matter now stands amicably

settled, and the parties do not want to proceed with the prosecution. There is no report regarding the involvement of any of the petitioners in offence like theft, robbery, or dacoity.

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; be it at the crime stage or at the trial stage or even at the appellate or revision stage; if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose, other than wasting the precious time of the court, when the case ultimately comes before the court.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.289/2014 of Chandera Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P.UBAID, JUDGE

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