

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Crl.MC.No. 712 of 2015 ()

CRIME NO. 600/2014 OF THOTTILPALAM POLICE STATION , KOZHIKODE DISTRICT

PETITIONERS/ACCUSED:

1. CLINOY, AGED 21 YEARS, S/O.CLETES
EDATHUMVELIKATHU HOUSE, KAVALUMPARA VIA
KOZHIKODE DISTRICT
2. MAJEESH K.T., AGED 32 YEARS
S/O.KRISHNAN NAIR, KOOLITHETTINEL HOUSE
KARINGADU P.O., KAVALUMPARA VIA, KOZHIKODU DISTRICT
3. AKHILESH, AGED 25 YEARS, MELATH HOUSE
POOTHAMPARA POST, KOZHIKODU DISTRICT
4. ARUN JOSEPH, AGED 18 YEARS
S/O.JOSEPH N.J., NELLIKKAMANNIL HOUSE
POTHAMPARA POST, KOZHIKODU DISTRICT

**BY ADVS.SRI.K.S.ARUN KUMAR
SRI.M.S.DILEEP**

RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
2. NIYAS, AGED 20 YEARS, S/O.RASACK
KUNNATHADATHIL HOUSE, KAVILUMPARA AMSOM
VATAKARA, KOZHICODE 673 103
3. SALMAN, AGED 19 YEARS, S/O. SIDDIQE
ALIPARAMBIL HOUSE, KAVILUMPARA P.O., VATAKARA
KOZHIKODE, PIN 673103
4. ASLAM, AGED 19 YEARS
S/O.HAMEED, KONDOTTI HOUSE, KAVILUMPARA P.O.
VATAKARA, KOZHIKODE, PIN 673103

5. AMARNATH, AGED 19 YEARS
S/O.PREMAN, K.V.HOUSE, KAVILUMPARA P.O.
VATAKARA, KOZHIKODE, PIN 673103

R2-R5 BY ADV. SMT.RESMI THOMAS
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE I: TRUE COPY OF THE FIR IN CRIME NO.600/2014 OF THOTTILPALAM
POLICE STATION**

ANNEXURE II:TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT

ANNEXURE III:TRUE COPY OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT.

ANNEXURE IV:TRUE COPY OF THE AFFIDAVIT SWORN BY THE 4TH RESPONDENT.

ANNEXURE V:TRUE COPY OF THE AFFIDAVIT SWORN BY THE 5TH RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Cr.M.C.No.712 of 2015

Dated this the 5th day of February, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.600/2014 of the Thottipalam Police Station, registered under Sections 341,323,324 and 308 read with 34 IPC on the complaint of one Niyas. 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, Niyas 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. The other persons who sustained injuries in the alleged incident are the respondents 3 to 5. They have also filed affidavit to the effect that they have settled the dispute with the accused, and they have no grievance or complaint now. On a perusal of the FIR, I find that Section 308 IPC was incorporated on the basis of a purely hypothetical statement. Any way, the parties have come

to terms out of court.

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; 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.600/2014 of the Thottilpalam Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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