

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. 715 of 2015 ()

**(AGAINST THE ORDER/JUDGMENT IN CC 499/2011 of J.M.F.C.-I, HOSDRUG DATED
CRIME NO. 138/2011 OF CHANDERA POLICE STATION , KASARGOD)**

PETITIONERS/ACCUSED 1 TO 3:

- 1. MUHAMMED SHEREEF, AGED 25 YEARS,
S/O.K.PADUL RAHIMAN, RESIDING AT SAINABA MANZIL,
NEAR UDNOOR JUMA MASJID, HOSDURG TALUK,
KASARAGOD DISTRICT.**
- 2. YUNAS K., AGED 28 YEARS,
S/O.YUSAF HAJI, RESIDING AT PEKKADAM,
NORTH THRIKKARIPPUR VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT.**
- 3. NIYAS K., AGED 24 YEARS,
S/O.HAMSA, RESIDING AT KOLATH HOUSE,
NORTH THRIKKARIPPUR VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENTS:

- 1. SHAFI A, AGED 34 YEARS,
S/O.IBRAHIMKUTTY, RESIDING AT KOTTAKAP HOUSE,
BNADAKKAV MUNDYA, UDINOOR VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT-671 310.**
- 2. THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER,
CHANDERA POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**R1 BY ADV. SMT.BINDUMOL JOSEPH
BY PUBLIC PROSECUTOR, SMT. P. MAYA**

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

Crl.MC.No. 715 of 2015 ()

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE-A1. : CERTIFIED COPY OF THE FIR IN CRIME NO.138/2011 OF CHANDERA POLICE STATION.

ANNEXURE-A2. : CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.138/2011 OF CHANDERA POLICE STATION.

ANNEXURE-A3. : THE AFFIDAVIT DATED 28/1/2015 SWORN IN BY THE 1ST RESPONDENT

ANNEXURE-A4. : COPY OF THE MEMO OF EVIDENCE IN CRIME NO.138/2011 OF CHANDERA POLICE STATION.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

P. UBAID, J.

Cr.M.C.No.715 of 2015

Dated this the 5th day of February, 2015

O R D E R

The petitioners herein are the three accused in C.C.No.499/2011 of the Judicial First Class Magistrate Court-I, 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 341,323 and 324 IPC read with 34 IPC on the complaint of one Shafi, who is the 1st 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. 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 further proceedings/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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.499/2011 of the Judicial First Class Magistrate 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.

Sd/-

P. UBAID, JUDGE

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