

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

Cr1.MC.No. 743 of 2015

IN SC 593/2014 of ADDL.SESIONS COURT - II, MANJERI
CRIME NO. 216/2014 OF KUTTIPURAM POLICE STATION, MALAPPURAM

PETITIONERS:

1. MOHAMMED NISAB, AGED 20 YEARS,
S/O.MOHAMMED KUTTY, PANDARATH MANACHIRA HOUSE,
THAVANUR P.O., MALAPPURAM 679 573
2. SADIK ALI, AGED 20 YEARS,
S/O.MOHAMMED K., KOTTELIL HOUSE, AVALIKKAD P.O.,
KOTTIMUKKU, MALAPPURAM 679 576
3. ABDUL RAHIMAN, AGED 20 YEARS,
S/O.ABOOBACKER, VATTAMATHAVALIYIL, PUNNAYARKULAM P.O.,
ALTHARA, THRISSUR 679 561
4. SAFWAN ABSUL SATHAR, AGED 20 YEARS,
S/O.ABDUL SATHAR, RAZHIKOTTAYIL HOUSE,
CHAMMANNUR P.O., PUNNAYARKULAM VIA, THRISSUR - 679 561
5. ABOOTHASHER, AGED 20 YEARS,
S/O.SHAMSUDHEEN, THAZHATHETHIL HOUSE,
KUMBIDI P.O.
6. RAMSHEED ASHRAF, AGED 20 YEARS,
S/O.ASHRAF, ULLIVETIL "SHAR", 5TH MILE
KADIPUR, KANNUR 670 642
7. ABDUL MUHAJIB, AGED 20 YEARS,
S/O.IBRAHIM K.P., KALAPARAMBIL HOUSE,
PERINTHALMANNA P.O., MALAPPURAM 679 322.
8. THANSHEER, AGED 20 YEARS,
S/O.MUSTHAFA, NEERULPAN HOUSE, EDAVANNA P.O.,
MALAPPURAM 676 541

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM
2. SUB INSPECTOR OF POLICE,
KUTTIPPURAM POLICE STATION,
KUTTIPPURAM - 679571
3. ASHIQ MUHAMMED,
S/O.MOHAMMED MUSTHAFI, KAZHUNGIN HOUSE, KOTTAPARAMBU,
CALICUT AIRPORT P.O, KONDOTTY, MALAPPURAM DISTRICT,
STUDYING AT S3-MECHANICAL ENGINEERING,
M.E.S. COLLEGE OF ENGINEERING, THRIKKANARPURAM P.O,
MALAPPURAM - 679 573

R1 & R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
24-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE ENQUIRY REPORT DATED 15.03.2014
SUBMITTED BY THE ENQUIRY COMMITTEE.

ANNEXURE A2: COPY OF THE ORDER NO. CE/MIS/214 2014 DATED
05.03.2014

ANNEXURE A3: COPY OF THE ORDER NO. UO.NO.6274/2014 ADMN. DATED
01.07.2014

ANNEXURE A4: COPY OF THE JUDGMENT DATED 30.07.2014 PASSED BY THIS
HONOURABLE COURT IN WP(C)NO.19247 OF 2014.

ANNEXURE A5: COPY OF THE JUDGMENT DATED 27.11.2014 PASSED BY THIS
HONOURABLE COURT IN WP(C)NO.30639 OF 2014.

ANNEXURE A6: COPY OF THE LETTER NO.E1/1358/2014/MESCE DATED
11.11.2014

ANNEXURE A7: COPY OF THE ORDER NO.CE/MIS/2014 DATED 20.03.2014

ANNEXURE A8: COPY OF THE ACCIDENT REGISTER-CUM-WOUND CERTIFICATE
NO.288/2014 DATED 20.05.2014 OF EDAPPAL HOSPITAL PVT. LTD

ANNEXURE A9: COPY OF THE MAHAZAR

ANNEXURE A10: COPY OF THE FIR NO.216 DATED 26.06.2014 OF
KUTTIPURAM POLICE STATION.

ANNEXURE A11: COPY OF THE FINAL CHARGE DATED 26.06.2012

ANNEXURE A12: COPY OF THE DISCHARGE BILL NO.1314/019294 DATED
26.02.2014 OF EDAPPAL HOSPITAL (PVT)LTD.

ANNEXURE A13: AFFIDAVIT OF THE DE-FACTO COMPLAINANT (3RD
RESPONDENT HEREIN) DATED 15.01.2015.

ANNEXURE A14: COPY OF THE F.I.STATEMENT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No. 743 of 2015

Dated this the 24th day of February, 2015

O R D E R

The petitioners herein are the eight accused in S.C No.593/2014 of the Additional Sessions Court II, Manjeri. 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, 326 and 308 of the Indian Penal Code on the complaint of one Ashiq Muhammed 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. 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. On a perusal of the

materials I find that Section 308 IPC was incorporated by the police on the basis of some hypothetical statement. The alleged incident happened in connection with some fight between two student groups. Now the dispute stands settled and the parties are on quite cordial terms within the campus and beyond the campus. 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 S.C No.593/2014 of the Additional Sessions Court II, Manjeri 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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