

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

Crl.MC.No. 753 of 2015 ()

**IN SC 882/2013 of SUB COURT,KOTTARAKKARA
CRIME NO. 978/2012 OF CHADAYAMANAGALAM POLICE STATION , KOLLAM**

PETITIONER(S)/ACCUSED:

- 1. FAYAS, AGED 25 YEARS
S/O.BADURUDEEN, ROADVILA VEETIL, MULAKKONAM
BUNGLAMKUNNU, NILAMEL VILLAGE, KOLLAM DISTRICT.**
- 2. SIYAD AGED 23 YEARS
S/O.RASHEED, NAJEER MANZIL, OPP.THYCAVU
NILAMEL VILLAGE, KOLLAM DISTRICT.**
- 3. SIYAD AGED 25 YEARS
C/O.ABDUL SALAM, HAZEENA MANZIL, KANNANCODE
NILAMEL MURI, NILAMEL VILLAGE, KOLLAM DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. SUB INSPECTOR OF POLICE
CHADAYAMANGALAM POLICE STATION, KOLLAM-691001.**
- 3. SUDHEER, AGED 27 YEARS
S/O.SALIM, RESIDING AT SUDHEER NIVAS, (SAJEER NIVAS)
KAITHAKUZH, NILAMEL P.O., KOLLAM DISTRICT.
691535.**

**R3 BY ADV. SRI.R.ARUN
R1-2 BY PUBLIC PROSECUTOR SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 753 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: TRUE COPY OF THE FIR IN CRIME NO.978/2012 OF CHADAYAMANGALAM POLICE STATION.

ANNEXURE-A2: TRUE COPY OF THE FINAL REPORT IN ANNEXURE-A1.

ANNEXURE-A3: TRUE COPY OF THE WOUND CERTIFICATE OF THE 3RD RESPONDENT ISSUED FROM THE TALUK HOSPITAL KADAKKAL.

ANNEXURE-A4: COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 753 of 2015

Dated this the 6th day of February, 2015.

O R D E R

The petitioners herein are the three accused in S.C No.882 of 2013 of the Assistant Sessions Court, Kottarakkara. 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, 324, 294(b), 308 r/w 34 IPC on the complaint of one Sudheer, who is the third 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. 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. 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. On a perusal of the case records I find that Section 308 IPC was in fact incorporated in the FIR by the police on the basis of a purely hypothetical statement

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C 882 of 2013 of the Assistant Sessions Court, Kottarakkara 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