

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Cr1.MC.No. 822 of 2015 ()

CC 1491/2014 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE (ECONOMIC
OFFENCES), ERNAKULAM

PETITIONERS/ACCUSED:

1. S.VISWANATHAN, AGED 65 YEARS
S/O.LATE S.SUBRAHMANYA IYER, PENSIONER

2. H.SITHA AGED 55 YEARS
W/O.S.VISWANATHAN, HOUSE WIFE

3. VIVEK VISWANATHAN AGED 28 YEARS
S/O.S.VISWANATHAN, SOFTWARE ENGINEER
[ALL ARE RESIDING AT KOKKAPPILLIL CHIRAPARAMBU MADAM
CLUB ROAD, DOOR NO.XL/158, KARITHALA DESOM
ERNAKULAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM DISTRICT]

BY ADV. SRI.MAHESH V RAMAKRISHNAN

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. M/S ALMARK HOUSING COMPANY PVT. LTD.
REP. BY ITS MANAGING DIRECTOR, K.K.VINOD, 5TH FLOOR
SHANTHI EMERALD, CHERUPARAMBATH ROAD, KADAVANTHRA
KOCHI-682 036.

R2 BY ADV. SRI.S.RAJEEV
BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 822 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1- TRUE COPY OF THE COMPLAINT DATED 09.07.2014 IN
C.C.NO.1419 OF 2014 OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE
COURT (ECONOMIC OFFENCES), ERNAKULAM.

ANNEXURE A2- THE AFFIDAVIT DATED 30.01.2015 SWORN TO BY THE
RESPONDENT NO.2 AND ATTESTED BY HIS COUNSEL.

ANNEXURE A3- TRUE COPY OF THE AGREEMENT DATED 29.01.2015 ENTERED INTO
BETWEEN THE 1ST PETITIONER AND THE 2ND RESPONDENT.

RESPONDENT(S) ' ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

P. UBAID,J.

Crl.M.C No.822 of 2015

Dated this the 10th day of February, 2015

O R D E R

The petitioners are the accused in C.C No.1491 of 2014 of the Additional Chief Judicial Magistrate (Economic Offences), Ernakulam. 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 120B, 406, 418 and 420 r/w 34 IPC on the complaint of the Managing Director of M/s. Almark Housing Company Pvt. Ltd. who is the second 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 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.1491 of 2014 of the Additional Chief Judicial Magistrate (Economic Offences), Ernakulam 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

//true copy//

P.A. To Judge

smv