

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

Cr1.MC.No. 849 of 2015

IN C.P NO. 57/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-
II, KOTTARAKKARA
CRIME NO. 1302/2011 OF CHADAYAMANAGALAM POLICE STATION, KOLLAM

PETITIONER/ACCUSED:

MOHAMED RASI, AGED 48 YEARS,
S/O.KASIM KUNJU,
KALLOR KIZHAKKUMKARA PUTHENVEEDU(RAHNA MANZIL),
OLLOORKONAM P.O., PUREEDAM, CHADAYAMANGALAM,
KOLLAM - 691 534.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031.
2. SUB INSPECTOR OF POLICE,
CHADAYAMANGALAM POLICE STATION,
KOLLAM -691 534.
3. JAFARKHAN, AGED 25 YEARS,
S/O.ILLYAS @ ELIAS, THALAVILA VEEDU,
OLLOORKONAM P.O.
PUREEDAM, CHADAYAMANGALAM,
KOLLAM DISTRICT - 691 534.

R3 BY ADV. SRI.R.ARUN

R1 & R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 849 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1: COPY OF THE FIR IN CRIME NO.1302 OF 2011 OF
CHADAYAMANGALAM POLICE STATION.

ANNEXURE-A2: COPY OF THE CHARGE SHEET IN ANNEXURE A1

ANNEXURE-A3: COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT

ANNEXURE-A4: COPY OF THE WOUND CERTIFICATE DATED 6.11.2011
ISSUED FROM THE GOKULAM MEDICAL COLLEGE HOSPITAL, VENJARAMMOODU.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.849 of 2015

Dated this the 11th day of February, 2015

O R D E R

The petitioner herein is the sole accused in C.P No.57/2014 of the Judicial First Class Magistrate Court II, Kottarakkara. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 341 and 308 of the Indian Penal Code on the complaint of one Jafarkhan 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. I find that Section 308 IPC was incorporated by the police on the basis of some hypothetical statement. 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 petitioner herein in C.P No.57/2014 of the Judicial First Class Magistrate Court II, Kottarakkara will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

**Sd/-
P.UBAID
JUDGE**

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