

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Crl.MC.No. 857 of 2015 ()

CRIME NO. 773/2014 OF THAMARASSERY POLICE STATION, KOZHIKODE

PETITIONERS/ACCUSED 1 TO 3 :

1. RIYAS, AGED 25 YEARS
S/O.KUTTIYEMU, NADUVIL KANDIYIL HOUSE, VAVAD P.O.
THAMARASSERY TALUK.
2. SHIHAB, AGED 25 YEARS
S/O.POKERKUTTY, PUTHIYAPURAYIL HOUSE, KOODATHAI BAZAR
THAMARASSERY TALUK.
3. SAID, AGED 28 YEARS
S/O.POKERKUTTY, PUTHIYAPURAYIL HOUSE,
KODATHAI BAZAR, THAMARASSERY TALUK.

BY ADV. SRI.LUIZ GODWIN D' COUTH

RESPONDENTS/DE-FACTO COMPLAINANT :

1. STATE OF KERALA
REP. BY S.I OF POLICE, THAMARASSERY
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.
2. MUHAMMED SAKARIYA, 42 YEARS
S/O.ABDURAHIMANKUTTY HAJI, KALATHIL HOUSE, MANGAD P.O.
UNNIKULAM, KOZHIKODE DISTRICT - 673 001.

***ADDL. R3 IMPEADED**

***ADDL.R3. AZARUDEEN
S/O. MOYEENKUTTY
NADUVIL KANDI VEEDU
THAMARASSERY – 673 020
KOZHIKODE DISTRICT
RESPONDENT NO.3 TO BE IMPEADED**

***IS IMPEADED AS PER ORDER DATED 17/3/15 IN CRL.MA NO. 2207/15.**

**R1 BY PUBLIC PROSECUTOR SMT. P. MAYA
R2 BY ADV. SRI.JOSE KURIAKOSE (VILANGATTIL)**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...3/-

Crl.MC.No. 857 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE A: TRUE COPY OF THE STATEMENT OF THE SECOND
RESPONDENT/DE FACTO COMPLAINANT.**

**ANNEXURE B: TRUE COPY OF THE FIR IN CRIME NO.773/2014 OF
THAMARASSERY POLICE STATION.**

**ANNEXURE C: TRUE COPY OF THE AFFIDAVIT OF THE DE FACTO
COMPLAINANT/SECOND RESPONDENT.**

**ANNEXURE D: COPY OF THE AFFIDAVIT SWORN BY AZARUDEEN DATED
18.2.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.UBAID, J.

Crl.M.C No.857 of 2015

Dated this the 17th March, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No. 773/2014 of the Thamarassery Police Station, registered under Sections 448, 341, 323, 324, 326 and 307 read with 34 IPC on the complaint of one Muhammed Sakariya. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Muhammed Sakariya is the 2nd 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.

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; be it at the crime stage or at the trial stage or even at the appellate or revision stage; if the parties have really settled the whole dispute, or if continuance

of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. I find nothing in this case for a prosecution under Section 307 IPC.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No. 773/2014 of the Thamarassery Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P.UBAID, JUDGE

sd