

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

Cr1.MC.No. 883 of 2015

IN CC 1863/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
I, KANNUR
CRIME NO. 477/2006 OF KANNUR TOWN POLICE STATION, KANNUR

PETITIONER:

SHARFAS.P.K, AGED 29 YEARS,
S/O.SUHAISA, RESIDING AT PACHIRA HOUSE,
KADALAI,
KANNUR DISTRICT.

BY ADVS.SRI.G.S.KRISHNAN KARTHA
SRI.LIJIN THAMBAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM 682 031.
2. KAMALJITH, AGED 31 YEARS,
S/O.KARUNAKARAN, KAMANEEYAM, NEERVELI,
KOOHUPARAMBA, THALASSERY,
KANNUR DISTRICT-670 643.

R2 BY ADV. SRI.K.S.ARUNDAS
R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 883 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1. COPY OF THE FIR NO.477/2006 OF KANNUR TOWN POLICE STATION.

ANNEXURE A2. COPY OF THE DEPOSITION IN PW1 IN CC 451/10 OF JUDICIAL FIRST CLASS MAGISTRATE COURT 1 KANNUR (CERTIFIED COPY)

ANNEXURE A3. COPY OF THE JUDGMENT IN CC 451/10 OF JUDICIAL FIRST CLASS MAGISTRATE COURT 1 KANNUR (CERTIFIED COPY)

ANNEXURE A4. COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.883 of 2015

Dated this the 5th day of March, 2015

O R D E R

The petitioner herein is the original 2nd accused in C.C No.451/2010 of the Judicial First Class Magistrate Court I, Kannur. Crime in this case was registered under Sections 143, 147, 148, 323, 324 and 427 r/w 149 of the Indian Penal Code on the complaint of one Kamaljith, who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. Accused Nos.5, 6 and 8 faced trial before the learned Judicial First Class Magistrate Court I, Kannur and obtained a judgment of acquittal dated 29.9.2012 in C.C No.451/2010 when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The case against the petitioner herein and others was split up when they absconded during the trial process. The case against the petitioner was refiled as C.C No.1863/2012 before the same court. Now the petitioner seeks orders quashing the prosecution on the ground of settlement with the defacto complainant. The 2nd respondent herein 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. 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.C No.1863/2012 of the Judicial First Class Magistrate Court I, Kannur 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.

**P.UBAID
JUDGE**

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