

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

Cr1.MC.No. 916 of 2015

CRIME NO. 225/2013 OF OCHIRA POLICE STATION, KOLLAM

PETITIONERS/ACCUSED 1 - 5:

1. SIYAD, AGED 30 YEARS,
S/O.HANEEFA, SIYAD MANZIL (H), KADATHUR MURI,
KULASEKHARAPURAM VILLAGE, KARUNAGAPPALLY,
KOLLAM DISTRICT.
2. NIZAR, AGED 22 YEARS,
S/O.RASHEED, KIZHAKKETHARA (H), KADATHUR MURI,
KULASEKHARAPURAM VILLAGE, KARUNAGAPPALLY,
KOLLAM DISTRICT.
3. HASHIM, AGED 20 YEARS,
S/O.BASHEER, KANNAMBALLI THEKKETHIL (H), KADATHUR MURI,
KULASEKHARAPURAM VILLAGE, KARUNAGAPPALLY,
KOLLAM DISTRICT.
4. MUHAMMED RASEEQ, AGED 21 YEARS,
S/O.ABDUL RAHIM, KATTIL (H), KADATHUR MURI,
KULASEKHARAPURAM VILLAGE, KARUNAGAPPALLY,
KOLLAM DISTRICT.
5. SHEMEER, AGED 30 YEARS,
S/O.BASHEER, KALLILETTU PADETTATHIL (H), KADATHUR MURI,
KULASEKHARAPURAM VILLAGE, KARUNAGAPPALLY,
KOLLAM DISTRICT.

BY ADV. SMT.G.VIDYA

RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. JISHNU MOHAN, AGED 19 YEARS,
S/O.MOHANAN PILLAI, PUTHUKATTU KIZHAKKETHIL (H),
CHANGANKULANGARA MURI, OACHIRA VILLAGE,
KOLLAM DISTRICT.

R2 BY ADV. JESWIN P.VARGHESE
R1 BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 916 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-1: COPY OF FIR IN CRIME NO.225/2013 OF OACHIRA POLICE
STATION IN KOLLAM DISTRICT DATED 13.1.2013.

ANNEXURE-2: COPY OF THE STATEMENT BY THE 2ND RESPONDENT DATED
11.12.2014

ANNEXURE-3: COPY OF FINAL REPORT IN CRIME NO.225/2013 OF OACHIRA
POLICE STATION IN KOLLAM DISTRICT DATED 13.1.2013

ANNEXURE-4: COPY OF THE AFFIDAVIT OF 2ND RESPONDENT DATED
11.12.2014

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.916 of 2015

Dated this the 27th day of February, 2015

O R D E R

The petitioners herein are the five accused in Crime No.225/2013 of the Ochira Police Station. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. The case number initially furnished by the petitioners was wrong. On finding that cognizance was wrongly taken as calendar case, I called for explanation from the committal court. Now there is a report by the learned Magistrate that the case was mistakenly registered as calendar case, but now it stands re-filed as C.P No.1/2015. The learned Magistrate has also made a request to excuse the mistake occurred in the committal court. Anyway, the case is now pending as C.P No.1/2015 before the Judicial First Class Magistrate Court, Karunagappally. Crime in this case was registered under Sections 143, 147 and 436 r/w 149 of the Indian Penal Code on the complaint of one Jishnu Mohan, who 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 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 petitioners herein in C.P No.1/2015 before the Judicial First Class Magistrate Court, Karunagappally 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**

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