

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Cr1.MC.No. 1028 of 2015

IN C.P NO. 257/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT,
NADAPURAM
CRIME NO. 482/2013 OF VALAYAM POLICE STATION, KOZHIKODE

PETITIONERS/ACCUSED NOS.1 AND 2:

1. MASHOOD, AGED 47 YEARS,
S/O.AMMAD, OLARANTAVIDA HOUSE,
THANAKKOTTOOR P.O,
PARAKADAVU CHAEKKYAD VILLAGE - 673 101.
2. MAHAMOOD, AGED 45 YEARS,
S/O.IBRAHIM, PANNIYETTICHALIL,
THANAKKOTTOOR P.O,
PARAKADAVU CHAEKKYAD VILLAGE - 673 101.

BY ADV. SRI.M.G.SREEJITH

RESPONDENT/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA, REPRESENTED BY THE SUB
INSPECTOR OF POLICE,
VADAKKEKARA POLICE STATION
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA - 682 031.
2. SUBASH, S/O.CHANDRAN,
MEENJERI KUZHIYIL, THANAKKOTTOOR,
CHEKKIDAD PANCHAYAT - 673 101.

R2 BY ADV. SRI.ABDUL JALEEL ONATH
R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1028 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE CHARGE SHEET IN C.P NO.257/2014 IN THE
FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM

ANNEXURE A2: AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED
20.12.2014

ANNEXURE A3: COPY OF THE JUDGMENT IN CRL.M.C NO.139/2015

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.1028 of 2015

Dated this the 19th day of February, 2015

O R D E R

The petitioners herein are the two accused in C.P No.257/2014 of the Judicial First Class Magistrate Court, Nadapuram. 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 143, 147, 148, 294(b), 341, 323, 324 and 308 of the Indian Penal Code on the complaint of one Subash 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. 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 petitioners herein in C.P No.257/2014 of the Judicial First Class Magistrate Court, Nadapuram 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

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