

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. 1029 of 2015

IN S.C 1766/2008 OF THE ASSISTANT SESSIONS COURT, NEYYATTINKARA

CRIME NO. 111/2006 OF THIRUVALLAM POLICE STATION,
THIRUVANANDAPURAM

PETITIONERS/ACCUSED 3 TO 7:

1. SAJEESH KUMAR,
S/O.MANIKANTAN NAIR, TC 48/577/2, GREEN GARDEN,
PARAVANKUNNU, AMBALATHARA WARD, MANACAUD P.O,
THIRUVANANTHAPURAM.
2. UDAYAN,
S/O.USHA KARAN, CHARUVILA PUTHEN VEEDU,
MAITHRI NAGAR,
PACHALLOOR, THIRUVALLOM VILLAGE,
THIRUVANANTHAPURAM.
3. MADHU, S/O.APPUKUTTAN,
CHARUVILA PUTHEN VEEDU, PLAPETTI VILA, PACHALLOOR,
THIRUVALLOM VILLAGE, THIRUVANANTHAPURAM.
4. THANSEER,
RESIDING AT T.C.63/3166, KIZHAKKE THOTTAM VEEDU,
AMBALATHARA, MANACAUD VILLAGE, THIRUVANANTHAPURAM.
5. ASHOKAN,
S/O.MANIYAN, RESIDING AT T.C.48/730, NEDIYAR VEEDU,
AMBALATHARA, MANACAUD VILLAGE,
THIRUVANANTHAPURAM.

BY ADVS.SMT.MAJIDA.S
SRI.AJIKHAN.M

RESPONDENTS/STATE AND COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. SUB INSPECTOR OF POLICE,
THIRUVALLAM POLICE STATION
THIRUVANANTHAPURAM - 695 001

3. GOPAN,
S/O.NAGENDRAN, CHAKKIPARA, MUDAMBU VEEDU,
MUTTATHARA VILLAGE,
THIRUVANANTHAPURAM - 695 026

R3 BY SRI.ARUN AJAY SHANKAR
R1 & R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

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. 1029 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL REPORT IN S.C NO.1766/2008 ON THE FILES OF THE ASSISTANT SESSIONS COURT, NEYYATTINKARA.

ANNEXURE A2: COPY OF THE DEATH CERTIFICATE OF ACCUSED NO.1 IN SC NO.1766/2008 BEFORE THE ASSISTANT SESSIONS COURT, NEYYATTINKARA

ANNEXURE A3: COPY OF THE DEATH CERTIFICATE OF ACCUSED NO.2 IN S.C NO.1766/2008 BEFORE THE ASSISTANT SESSIONS COURT, NEYYATTINKARA.

ANNEXURE A4: ORIGINAL AFFIDAVIT SWOM BY THE DE-FACTO COMPLAINANT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY/

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1029 of 2015

Dated this the 19th day of February, 2015

O R D E R

The petitioners herein are the accused Nos. 3 to 7 in S.C No.1766/2008 of the Assistant Sessions Court, Neyyattinkara. 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, 149, 363, 343 and 308 of the Indian Penal Code on the complaint of one Gopan 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. Accused Nos.1 and 2 died pending the proceeding. The petitioners have produced copies of death certificates showing the death of the accused Nos.1 and 2.

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. On a perusal of the materials I find that Section 308 IPC was incorporated in the FIR and the final report 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 S.C No.1766/2008 of the Assistant Sessions Court, Neyyattinkara 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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