

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

Crl.MC.No. 1074 of 2015 ()

AGAINST T CC 222/2012 of J.M.F.C.-V,KOZHIKODE

PETITIONER(S)/ACCUSED:

1. T.C.ZULFIKAR ALI, AGED 46 YEARS
S/O.MUHAMMED KOYA, MAHSOOM VILLA, POST MUNNAR
KOZHIKODE DISTRICT.
2. M/S. CIPEX RUBBER INDUSTRIES,
POST MANNUR, KOZHIKODE DISTRICT, 673328
REPRESENTED BY ITS MANAGING PARTNER
SRI.T.C.ZULFIKAR ALI.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS/STATE AND COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. EMPLOYEES STATE INSURANCE CORPORATION,
REPRESENTED BY THE BRANCH MANAGER, BRANCH OFFICE
E.S.I.CORPORATION, FEROKE, KOZHIKODE-673631.

R1 BY PUBLIC PROSECUTOR SMT.S.HYMA
R2 BY SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPN

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

Crl.MC.No. 1074 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE-1 COMPLAINT LEADING TO CC 222/12 BEFORE THE JUDICIAL
MAGISTRATE OF IST CLASS-5 KOZHIKODE

ANNEXURE-2 TRUE COPY OF THE NEW AMNESTY SCHEME 2014.

ANNEXURE-3 TRUE COPY OF THE LETTER FROM THE 2ND RESPONDENT TO THE
PETITIONER DATED 2/5/14

ANNEXURE-4 TRUE COPY OF THE LETTER FROM THE 2ND RESPONDENT TO THE
PETITIONER DATED 27/5/14

ANNEXURE-5 TRUE COPY OF THE REQUEST MADE BY THE PETITIONER TO THE
RESPONDENT DATED 24 JULY 2014

ANNEXURE-6 TRUE COPY OF THE DECISION TAKEN BY THE CORPORATION
DATED 19.12.2014.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
~~~~~  
**Crl.M.C No.1074 of 2015**  
~~~~~  
Dated this the 5th March 2015

ORDER

The petitioners herein seek orders quashing a prosecution brought under the Employees State Insurance Act. The offence alleged against the petitioners is punishable with imprisonment up to three years. The learned Magistrate recorded pre-charge evidence under Section 244 of the Code of Criminal Procedure and thereafter framed a charge against the accused. An application thereafter filed for a discharge was not pressed. Later, an application came under Section 257 of the Code of Criminal Procedure to withdraw the complaint. That was dismissed by the learned Magistrate on the ground that such withdrawal is not possible in this case involving a warrant trial procedure. The offence already stands compounded. The petitioners have already made payment of the entire amount due from them under the law. Now what is possible is only orders quashing the prosecution under Section 482 of the Code of Criminal Procedure.

2. It is submitted from the side of the 2nd respondent that the Corporation does not want to prosecute the matter further, and that the Corporation has no objection in quashing the prosecution when the offence stands compounded by payment of the entire amount due. I find that the prosecution can be quashed in the present circumstance where continuance of the prosecution will cause harm and hardship to the petitioners, who have paid the entire amount due under the law. When the offence stands compounded as provided under the law, it would be unjust and improper to continue the prosecution.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.222 of 2012 of the Judicial First Class Magistrate's Court-V, Kozhikode 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**

ma

/True copy/

P.S to Judge