

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

Cri.MC.No. 1158 of 2015 ()

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CC 549/2007 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ERNAKULAM
CRIME NO. 63/2007 OF ERNAKULAM CENTRAL POLICE STATION , ERNAKULAM
DISTRICT
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PETITIONERS/ACCUSED NOS.2 TO 4:

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- 1. MR.SUBRAMANYAN, AGED 43 YEARS
S/O.VELAYUDHA MENON, IYKKAT HOUSE
KOMNGORPPILLYKARA, ALANGAD VILLAGE.**
 - 2. MR.MUHAMMAD ALI, AGED 49 YEARS
S/O.SAIDU MUHAMMAD, HOUSE NO.VI/538
BAZAR ROAD, MATTANCHERY.**
 - 3. NAUSHAD, S/O.HAMSA, AGED 46 YEARS
HOUSE NO.1/81D, BAZAR ROAD, MATTANCHERY.**

BY ADV. SRI.P.A.MARTIN ROY

RESPONDENTS/COMPLAINANT AND DEFACTO COMPLAINANT:

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- 1. STATE OF KERALA
THROUGH SUB INSPECTOR OF POLICE
CENTRAL POLICE STATION, REP.BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
 - 2. SUKUMARAN, AGED 69 YEARS, S/O.NARAYANAN
ARADHANA HOUSE, DEEPAN ROAD, PONNURUNNI DESAM
POONITHURA VILLAGE
WORKING AS ADMINISTRATIVE MANAGER
SILPPY CONSTRUCTION CONTRACTORS
M.G.ROAD, KOCHI 682 035.**
- R2 BY ADV. SRI.V.A.SEBASTINE
R1 BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNX.I - CERTIFIED COPY OF THE FIR IN CRIME NO.63/2007 OF CENTRAL POLICE
STATION**

**ANNX.II - TRUE COPY OF THE CHARGE SHEET FILED BY THE POLICE BEFORE THE
HON'BLE JFCM II, ERNAKULAM WHICH IS PENDING AS C.C.NO.549/2007.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // PA. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1158 of 2015

Dated this the 25th day of February, 2015

O R D E R

The petitioners herein are the accused Nos.2 to 4 in C.C.No.549/2007 of the Judicial First Class Magistrate Court-II, Ernakulam. 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 381, 411 and 34 on the complaint of one Sukumaran, 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. The counter case also stands settled and quashed by this Court. The main accused in the crime, who committed the offence of theft is the 5th accused.

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. I am well satisfied that the orders quashing the prosecution as against these petitioners will not affect the prosecution proceeding against the accused Nos 1 and 5, who are not the parties to this proceeding.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.549/2007 of the Judicial First Class Magistrate Court-II, Ernakulam, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

Sd/-

P. UBAID, JUDGE

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