

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. 1165 of 2015 ()

**CP 247/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KASARAGOD
CRIME NO. 333/2013 OF ADHUR POLICE STATION , KASARGOD DISTRICT**

PETITIONERS/ACCUSED :

1. HAMSAR, AGED 30 YEARS, S/O. MUHAMMED KUNHI
BALANADUKKAM HOUSE, MOOLYAR, KASARAGOD.
2. NISSAR, AGED 30 YEARS
S/O. ABDUL RAHIMAN, RESIDING AT BALANADUKKAM HOUSE
MOOLYAR, KASARAGOD.
3. NISAMUDHEEN @ NISSAR, AGED 26 YEARS
S/O. ABDUL RAHIMAN, RESIDING AT BALANADUKKAM HOUSE
MOOLYAR, KASARAGOD.
4. ABDULLA KUNHI @ ANTHUNHI, AGED 27 YEARS
S/O. ABDUL RAHIMAN, RESIDING AT BALANADUKKAM HOUSE
MOOLYAR, KASARAGOD.
5. ABDUL ROUF @ ROUF, AGED 32 YEARS
S/O. MUHAMMED KUNHI, RESIDING AT BALANADUKKAM HOUSE
MOOLYAR, KASARAGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT/COMPLAINANT/STATE :

1. THE SUB INSPECTOR OF POLICE
ADHUR POLICE STATION, KASARAGOD-673 121.
2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.
3. ABDUL RAHIMAN ZIYAD , AGED 19 YEARS
S/O. B.A.MOIDEEN KUNHI, VALAPPIL HOUSE
BAVIKANAM MULIYAR VILLAGE, KASARAGOD-673 125.
4. MOHAMMED NASEER , AGED 24 YEARS
S/O. ABDUL RAHIMAN, MOOLADKAM HOUSE, MULIYAR P.O.
KASARAGOD-673 125.

R3 & R4 BY ADV. SRI.CIBI THOMAS

R1 & R2 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

**ANNEXURE I : CERTIFIED COPY OF THE FINAL REPORT IN C.P.247/2013 ON THE FILE
OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KASARAGOD.**

ANNEXURE II: CERTIFIED COPY OF THE FIRST INFORMATION REPORT.

ANNEXURE III: COPY OF THE AFFIDAVIT SWORN BY THE RESPONDENT NO.3.

ANNEXURE IV : COPY OF THE AFFIDAVIT SWORN BY THE RESPONDENT NO.4.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1165 of 2015

Dated this the 25th day of February, 2015

O R D E R

The petitioners herein are the accused in C.P.No.247/2013 of the Judicial First Class Magistrate Court-I, Kasaragod. 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, 34, 323, 324, 308 and 506(ii) read with 149 IPC on the complaint of one Abdul Rahiman, 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. The other person who sustained injuries in the alleged incident is the 4th respondent in this proceeding. He has also 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 prosecution in pending proceedings, if the

parties have really settled the whole dispute amicably out of court, and continuance of further proceeding 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.247/2013 of the Judicial First Class Magistrate Court-I, Kasaragod, 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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