

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

Crl.MC.No. 1233 of 2015 ()

**IN SC 1011/2010 of PRL.SUB COURT,TRIVANDRUM
CRIME NO. 166/2010 OF POONTHURA POLICE STATION , THIRUVANANTHAPURAM**

PETITIONER(S):

- 1. SHAHABUDEEN AGED 40 YEARS
S/O. MUHAMMED HANEEFA SHAMNAQ MANZIL, TC 63/385
ATHENPALLY, MUTTATHARA WARD
NOW RESIDING AT TC NO. 48/2014, ATHENPALLY
MUTTATHARA WARD, MUTTATHARA VILLAGE
THIRUVANANTHAPURAM (A1).**
- 2. MUHAMMED HUSSAIN AGED 32 YEARS
S/O. SHAHUL HAMEED, ALARIKUNJU VEEDU, TC 46/345
PALLITHRIVU, PUTHEN PALLITHERIVU, MUTTATHARA VILLAGE
THIRUVANANTHAPURAM (A2)**

BY ADV. SRI.V.S.THOSHIN

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE POONTHURA POLICE STATION
THIRUVANANTHAPURAM - 695 001.**
- 2. HISHAM, AGED 29 YEARS
S/O. SHAHUL HAMEED, RESIDING AT TC 35/8
MALIKUJIL HOUSE, VALLAKKADAVU P.O., PETTAH VILLAGE
MANACAUD P.O., THIRUVANANTHAPURAM (CW1) - 695 010.**

R2 BY ADV. SRI.T.K.BABU

R1 BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 1233 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

A - THE TRUE COPY OF THE FINAL REPORT IN SC NO. 1011/10 PENDING ON THE FILE OF THE SUB COURT, THIRUVANANTHAPURAM.

B - THE COMPROMISE AFFIDAVIT OF THE 2ND RESPONDENT/DEFACTO COMPLAINANT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.1233 of 2015

Dated this the 9th day of March, 2015.

O R D E R

The petitioners herein are the two accused in S.C No.1011 of 2010 of the Sub Court, Thiruvananthapuram. 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 294(b), 341, 323, 324, 308 and 34 of IPC on the complaint of one Hisham who is the second 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. 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 proceedings 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. On a perusal of the final report and the FIR I find nothing definite for a prosecution under Section 308 IPC.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C No.1011 of 2010 of the Sub Court, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

P.UBAID,
JUDGE