

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

Crl.MC.No. 1250 of 2015 ()

**IN SC 1769/2010 of SUB COURT,KOTTARAKKARA
CRIME NO. 902/2009 OF PUNALUR POLICE STATION , KOLLAM**

PETITIONER(S)/ACCUSED NO. 2:

**JACKSON AGED 23 YEARS
S/O.JOY, KUNNUMMEL VEETIL, KALLUMALA
PAPER MILL WARD, PUNALUR VILLAGE
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.ALEXANDER GEORGE

RESPONDENT(S)/STATE/COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. STATION HOUSE OFFICER
PUNALUR POLICE STATION, KOLLAM DISTRICT.**
- 3. PRADHEESH, AGED 21 YEARS
S/O.SATHYAVATHY, THADATHIL VEETIL, KALLUMALA
PAPER MILL WARD, PUNALUR VILLAGE, KOLLAM DISTRICT.**

**R3 BY ADV. SRI.C.P.SAJI
R1-2 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1250 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE 1: A TRUE COPY OF THE CHARGE SHEET IN CRIME NO. 902/2014 OF PUNALUR POLICE STATION WHICH IS PENDING AS S.C.NO. 1769/2010 BEFORE THE HON'BLE SUB COURT, KOTTARAKKARA.

ANNEXURE 2: AFFIDAVIT FILED BY THE THIRD RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 1250 of 2015

Dated this the 13th day of March, 2015.

O R D E R

The petitioner herein is the second accused in S.C No.1769 of 2010 of the Assistant Sessions Court, Kottarakkara. The offences alleged against him and the co-accused are under Sections 323 and 308 IPC r/w 34 of IPC. The de facto complainant who sustained injuries in the incident is one Pradheesh. The petitioner seeks orders quashing the prosecution as against him on the ground that he and Pradeesh have come to terms out of court. Pradeesh is the third respondent in this proceeding brought to quash the prosecution under Section 482 Cr.P.C. He has filed affidavit to the effect that he has settled the whole dispute with the second accused in the case, and he has no grievance or complaint against him. I find that there is a real and genuine settlement between the petitioner and the de facto complainant. On a reading of the

final report, this appears to be a simple case of assault. When the case comes up for trial against the others the trial court will have to examine whether this is in fact a case involving the offence under Section 308 IPC. On a perusal of the final report I find that the main allegations are against the other accused and as alleged by the prosecution the person who inflicted injuries with weapon is the third accused. I find that orders in favour of the petitioner herein will not affect the prosecution as against the other three accused. The prosecution against them can safely continue in the trial court. 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 as against all the accused or some among them, if there is a real and genuine settlement. As already observed, the applicability of Section 308 IPC will have to be thoroughly examined by the trial court. In the circumstances of a real settlement between the parties, the prosecution as against the petitioner can be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein as the second accused in S.C No.1769 of 2010 before the Assistant Sessions court,

Kottarakkara will stand quashed under Section 482 Cr.P.C.
The prosecution will proceed against the other three accused
in the case.

P.UBAID,
JUDGE

sab