

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

Cr1.MC.No. 1388 of 2015

AGAINST L.P NO.46/2014 IN CC 717/2012 OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-II, PERINTHALMANNA

CRIME NO. 269/2012 OF WANDOOOR POLICE STATION, MALAPPURAM

PETITIONER/ACCUSED:

YUNUS, AGED 33 YEARS,
S/O.ABU, CHALIPPADAN HOUSE, KOORAD
WANDOOOR, MALAPPURAM DISTRICT

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/DE-FACTO COMPLAINANT/STATE:

1. K.SHAJAHAN, AGED 33 YEARS,
S/O.USMAN, KORAKANDAN HOUSE,
VANIYAMBALAM PO- 679 324,
MALAPPURAM DISTRICT
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R1 BY ADV. SRI.JITHIN LUKOSE
R2 BY SR. PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

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

Cr1.MC.No. 1388 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1- COPY OF THE COMPLAINT IN CRL.M.P 120/2012 ON THE
FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II,
PERINTHALMANNA

ANNEXURE A2- CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO.
269/2012 OF WANDOOOR POLICE STATION

ANNEXURE A3- COPY OF THE ORDER DATED 7.8.2013 IN CC NO.717/2012
OF THE FILES OF JUDICIAL FIRST CLAS MAGISTRATE COURT II,
PERINTHALMANNA

ANNEXURE A4- THE AFFIDAVIT SWORN IN BY THE 1ST RESPONDENT DATED
8.1.2015

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1388 of 2015

Dated this the 5th day of March, 2015

O R D E R

The petitioner herein is the original 1st accused in C.C No.717/2012 of the Judicial First Class Magistrate Court II, Perinthalmanna. The 2nd accused faced trial before the learned Magistrate and obtained a judgment of acquittal when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The case against the petitioner was split up when he remained absent consistently, and it now stands transferred to the register of long pending cases as L.P No.46/2014. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 468, 471 and 420 of the Indian Penal Code on the complaint of one Shajahan who is the 1st 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.

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.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No.717/2012 (now pending as L.P No.46/2014) of the Judicial First Class Magistrate Court II, Perinthalmanna will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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