

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

CrI.MC.No. 1392 of 2015 ()

CRIME NO. 299/2006 OF MANJESWAR POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED:

**NASSER M.
S/O.C.P.MOHAMMED, AZEEZ MANZIL, HIDAYATH NAGAR
UPPALA, KASARAGOD.**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S)/COMPLAINANT/STATE:

-
- 1. STATION HOUSE OFFICER
MANJESHWAR POLICE STATION, KASARAGOD-673121.**
 - 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
 - 3. SURESH.U,, AGED 42 YEARS
S/O.BABU, NEAR SREE UMA BHAGAVATHI BHAJANA MANDIRAM
PACHILAMPARA, UPPALA, KASARAGOD-673123.**
 - 4. V..LATHEESH KUMAR,, AGED 36 YEARS
S/O.VASUDEV, KADAMBAR HOUSE
NEAR VISHNU MOORTHY TEMPLE, KADAMBAR, UPPALA
KASARAGOD-673123.**

**R3&4 BY ADV. SRI.CIBI THOMAS
PUBLIC PROSECUTOR SMT.SAREENA GEORGE**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22-05-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1392 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE I TRUE COPY OF THE FINAL REPORT IN CR.299/2006
ANNEXURE-II TRUE COPY OF THE ORDER IN SC.693/2014 OF SESSIONS
COURT,KASARAGOD
ANNEXURE-III TRUE COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT
ANNEXURE-IV TRUE COPY OF THE AFFIDAVIT OF THE 4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

sdk+

///True copy///

P.S. to Judge

ALEXANDER THOMAS, J.

=====

Crl.M.C.No. 1392 of 2015

=====

Dated this the 22nd day of May, 2015

O R D E R

The petitioner is the 3rd accused in Crime No.299/2006 of Manjeshwar Police Station. The Police, after investigation filed the impugned Anx.I final report/charge sheet in Crime No. 299/2006 of Manjeshwar Police Station, for offences alleged under Secs.341, 323 read with 34 of the IPC and Sec.3(i)(x) of SCST (Prevention of Atrocities) Act, against accused 1 to 3. Since the accused were not attending case, the same was included in the long pending case list as LPC No.38/2010. It is further stated that the accused and the defacto complainant had talked over the differences and settled the same and compromise petition was also filed before the Sessions Court, Kasargod and that A-2 was acquitted under Sec.320 of the Cr.P.C. as per Anx.II order of the Sessions Court, Kasargod, in the said sessions case. It is contended that since the case against A-2 was settled and acquitted, the prosecution against the other accused including the petitioner, who is the 3rd accused, has no

sanctity and that the defacto complainant (respondent No.3 herein) and CW-2 (respondent 4 herein) have also settled the matter with the petitioner, who is accused No.3, and have sworn to separate affidavits dated 27.2.2015 as evident from Anxs.III and IV herein, wherein they have stated that they have settled the matter with the petitioner and that they have no further grievances against the petitioner and that they have no objection in the quashment of the impugned criminal proceedings, etc. It is in the light of these facts and circumstances that the petitioner has preferred this Crl.M.C. with the prayer to quash the impugned Anx.I final report/charge sheet in LPC No.38/2010 in S.C.No.603/2014 on the file of the Sessions Court, Kasargod and other proceedings arising therefrom.

2. Heard Sri.T.G.Rajendran, learned counsel appearing for the petitioner, Sri.Cibi Thomas, learned counsel appearing for respondents 3 and 4, and learned Public Prosecutor appearing for respondents 1 and 2.

3. This Court had called for a report from the Sessions Court, Kasargod, whereupon the said Court has furnished the details as per letter dated 11.3.2015, stating that on 26.11.2014, CWs 1 and 2, who are injured and the victim, were present and they

represented that the matter has been settled out of court and filed a compromise petition and that CWs 1 and 2 stated that the accused has not insulted them by calling their caste name in public and that this led to the passing of the order dated 26.11.2014 acquitting the accused therein (A-2 in Anx.I Final Report). The petitioner reiterated the submissions and contentions in the Crl.M.C. The learned counsel appearing for respondents 3 and 4, who are the defacto complainants, have no grievances against the petitioner herein and that they have no objection in quashment of the impugned criminal proceedings, etc. The learned Public Prosecutor submitted that the prayer may be considered in the light of the decisions of the Apex Court on the subject.

4. On consideration of the facts and circumstances of the case, it is seen that one of the co-accused has been acquitted as per Anx.II order and the defacto complainant and CW-2 have stated before the court below that the accused has not insulted them by calling their caste name, etc. and that they have no grievances against the accused, etc., which led to his acquittal as per Anx.II order. The defacto complainant and CW-2 (Respondents 3 and 4 herein) have also sworn to affidavits as per Anxs.III and IV stating

that they have no objection in quashing the impugned criminal proceedings against the petitioner herein, as no meaningful public purpose would be subserved in continuing the impugned criminal proceedings against the petitioner. In the light of these aspects, more particularly, on the basis of Anx. II order of acquittal of the co-accused and Anxs-III and IV affidavits of contesting respondents 3 and 4 and the submissions and the other attendant circumstances, it is ordered in the interest of justice that the impugned criminal proceedings initiated against the petitioner on the basis of Anx.I final report/charge sheet in Crime No.299/2006 of Manjeshwar Police Station, leading to the pendency of L.P.C.No.38/2010 on the file of the Sessions Court, Kasargod and all further proceedings against petitioner arising therefrom stand quashed. The petitioner will produce certified copies of this order before the SHO concerned and the court below concerned.

With these observations and directions, the Crl.M.C. stands finally disposed of.

sdk+

///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

