

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

Crl.MC.No. 1401 of 2015 ()

CRIME NO. 295/2014 OF BADAGARA POLICE STATION, KOZHIKODE DISTRICT

PETITIONER/ACCUSED :

**KUNNUMMAL MAMMU
S/O.UMMERKUTTY, AGED 70 YEARS
SUHAIL MANZIL, VADAKARA BEACH ROAD
VADAKARA.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.ASHIS**

RESPONDENT/RESPONDENT/COMPLAINANT :

**1. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**

**2. MUHAMMAD ASFAR,
S/O.BASHEER, AGED 32 YEARS
AYARANATH HOUSE, BEACH ROAD
VATAKARA-673 101.**

***ADDL. R3 IMPEADED**

***ADDL.R3. AYARANATH KUNJATTAVI
W/O.BASHEER, AGED 60 YEARS
AYARANATH HOUSE, BEACH ROAD
VATAKARA.**

***ADDL. R3 IS IMPEADED AS PER ORDER IN CRL.M.A. NO. 5485/2015
DATED 17/06/2015.**

**R1 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE
R2 & ADDL.R3 BY ADV. SRI.NANDAGOPAL S. KURUP**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...2/-

Crl.MC.No. 1401 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE-I: CERTIFIED COPY OF THE F.I.R IN CRIME NO.295 OF 2014 OF
BADAGARA POLICE STATION DATED 2.3.2014.**

**ANNEXURE-II: CERTIFIED COPY OF THE CHARGE IN CRIME NO.295 OF 2014
OF BADAGARA POLICE STATION DATED 30.7.2014.**

ANNEXURE-III: AFFIDAVIT DATED 20.2.2015 SWORN BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 1401 of 2015
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Dated this the 17th day of June, 2015

O R D E R

The petitioner seeks orders quashing Anx.I F.I.R in Crime No.295/2014 of Badagara Police Station, registered for offence under Sec.436 of the I.P.C., which has led to the institution of C.P.No.151/2014 on the file of the Judicial First Class Magistrate's Court, Vadakara. It is stated that the petitioner and contesting respondents 2 and 3, who are close relatives, have now settled the entire disputes between them amicably, which arose out of partition of their family property, as borne out by Anx.III affidavit filed by the 2nd respondent and the affidavit dated 6.4.2015 filed by the 3rd respondent along with Crl.M.A.No.5485/2015, wherein respondents 2 and 3 have stated that they have no objection for quashment of the impugned criminal proceedings against the petitioner herein. It is in the light of these aspects that the petitioner has preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against him.

2. In a catena of decisions, the Apex Court has held that in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if continuance of prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavits of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. State of Punjab and anr.* reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment. Accordingly, the impugned Anx.I F.I.R in

Crime No. 295/2014 of Badagara Police Station, which has led to the institution of C.P.No.151/2014 on the file of Judicial First Class Magistrate's Court, Vadakara, and all further proceedings arising therefrom pending against the petitioner stand quashed.

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

sd/+
ALEXANDER THOMAS, JUDGE
///True copy///

P.S. to Judge