

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

Cr1.MC.No. 1410 of 2015

CRIME NO. 436/2014 OF KOLATHUR POLICE STATION, MALAPPURAM

PETITIONERS/ACCUSED:

1. RIYAS, AGED 23 YEARS,
S/O.ABDUL BASHEER, PALLIYALITHODI HOUSE,
RAMAPURAM P.O, PUZHAKKATTIRI, MALAPPURAM DISTRICT.
2. PRASANT,
S/O.AYYAPPAN, VARIYAMPARBIL HOUSE, PUZHAKKATTIRI,
MALAPPURAM DISTRICT.
3. THAMEES KHAN,
S/O.CHEKU, KARUVALLIPATHIKKAL HOUSE, PUZHAKKATTIRI,
MALAPPURAM DISTRICT.

BY ADV. SRI.JITHIN LUKOSE

RESPONDENTS/DE-FACTO COMPLAINANT/VICTIM AND STATE:

1. SUNILKUMAR, AGED 28 YEARS,
S/O.CHANDRAN, PALAKKAL HOUSE, PANANGANGARA-679350
MALAPPURAM DISTRICT.
2. SUDHEESH, AGED 27 YEARS,
S/O.SHIVADASAN, PANANGANGARA-679350
MALAPPURAM DISTRICT.
3. RASHEED, AGED 32 YEARS,
S/O.ABUBAKKER, PANANGANGARA-679350
MALAPPURAM DISTRICT.
4. HAMSATHALI, AGED 34 YEARS,
S/O.HUSSAIN, PANANGANGARA-679350
MALAPPURAM DISTRICT.
5. SHAFEEK, AGED 23 YEARS,
S/O.HAMZA, PANANGANGARA-679350, MALAPPURAM DISTRICT.
6. PRASAD, AGED 28 YEARS,
S/O.RAMACHANDRAN, PANANGANGARA-679350
MALAPPURAM DISTRICT.

7. THE STATE OF KERALA

REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA

ERNAKULAM-682031. (IN CRIME NO.436/2014 OF KOLATHUR
POLICE STATION MALAPPURAM DISTRICT.)

BY PUBLIC PROSECUTOR SMT.S.HYMA
BY SRI.P.SAMSUDIN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1410 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-A1: COPY OF THE FIR AND FIS IN CRIME NO.436/2014 OF
KOLATHUR POLICE STATION.

ANNEXURE-A2: THE AFFIDAVIT SWORN BY THE RESPONDENTS 1 TO 6.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1410 of 2015

Dated this the 12th day of March, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.436/2014 of Kolathur Police Station, registered under Sections 308, 323, 324 and 341 r/w 34 of the Indian Penal Code on the complaint of one Sunil Kumar. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Sunil Kumar is the 1st respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. The other persons who sustained injuries in the alleged incident are the respondents 2 to 6. The defacto complainant and the victims have filed affidavit to the effect that they have settled the whole dispute with the accused and they have no grievance or complaint.

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; be it at the crime stage or at the trial stage or even at the appellate or

revisional stage; if the parties have really settled the whole dispute, or if continuance of the prosecution will not serve any purpose. On a perusal of the materials I find that Section 308 IPC was incorporated by the police on the basis of some hypothetical statement. Here, I find a real case of settlement between the parties, and I also find 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.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.436/2014 of Kolathur Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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