

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

Cr1.MC.No. 1432 of 2015 ()

IN SC 763/2009 OF THE 1ST ADDITIONAL ASSISTANT SESSIONS COURT,
THRISSUR

PETITIONERS/ACCUSED NO. 1 - 4 & 6:

1. VISHNU, AGED 24 YEARS,
S/O.SURYANARAYANAN, AMMANATH VEEDU, AMALA NAGAR
PUZHAKKAL.
2. SAJITH, AGED 24 YEARS,
S/O.KRISHNAN, PALUPPARAMBIL HOUSE, PANDALLUR DESOM,
KODAKARA, NELLAI.
3. NIJIL, AGED 23 YEARS,
S/O.VIJAYAN, POOVATHUMTHAZHAM HOUSE, MUPLIYAM,
VARANTHARAPPALLY.
4. RASHEED, AGED 24 YEARS,
S/O.MOHAMMED, KUNNATHPEEDIKAYIL HOUSE,
THRISSUR RAILWAY QUARTERS.
5. NIDHIN.P VISWANATH, AGED 26 YEARS,
S/O.VISWANATH, PUTHENKANDATH HOUSE, MANAKKODI.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENTS/COMPLAINANT & DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTING SUB INSPECTOR OF POLICE,
THRISSUR WEST POLICE STATION
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. GOPI, AGED 54 YEARS,
S/O.GOPALAN, VAIKKATHADAN HOUSE, KALLAYI DESOM,
MANNAMANGALAM VILLAGE, THRISSUR DISTRICT - 673 003.

R1 BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P
R2 BY SRI.SEBY JOSEPH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1432 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF FIR DATED 09/11/08 IN CRIME NO. 460/2008 OF
THRISSUR WEST POLICE STATION.

ANNEXURE A2: COPY OF FINAL REPORT DATED 29/11/08 IN CRIME NO.
460/08 OF THRISSUR WEST POLICE STATION.

ANNEXURE A3: AFFIDAVIT DATED 28/02/2015 OF 2ND RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1432 of 2015

Dated this the 6th day of March, 2015

O R D E R

The petitioners herein are the accused Nos. 1, 4 and 6 in S.C No.763/2009 of the 1st Additional Assistant Sessions Court, Thrissur. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. It is submitted that the 5th accused died pending the proceedings, and thus the prosecution against him abated. Crime in this case was registered under Sections 143, 147, 148, 448, 341, 323, 324, 294(b), 506 and 308 r/w 149 of the Indian Penal Code on the complaint of one Gopi who is the 2nd 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. On a perusal of the materials I find that Section 308 IPC was incorporated in the proceeding on the basis of some hypothetical statement. 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 petitioners herein in S.C No.763/2009 of the 1st Additional Assistant Sessions Court, Thrissur will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

**P.UBAID
JUDGE**

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