

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

Crl.MC.No. 1438 of 2015 ()

**IN LP 262/2008 of J.M.F.C-II, THRISSUR
CRIME NO. 8/1999 OF ANTHIKKAD POLICE STATION , THRISSUR**

PETITIONER(S)/ACCUSED:

**ANURABAL
S/O.CHERAMKULAM BALAN, VADAKKUMMURI VILLAGE
ANJANGADI DESAM, THRISSUR DISTRICT.**

BY ADV. SRI.LINDONS C.DAVIS

RESPONDENT(S)/RESPONDENT/DEFACTO COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
 - 2. SHUKOOR @ SHOUKATH
S/O.MEKKARA PALAKKAL MUHAMMED, VADAKKUMMURI VILLAGE
ANJANGADI DESOM, THRISSUR DISTRICT.**
- R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1438 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: CERTIFIED COPY OF THE FIR OF CRIME NO. 8/1999 OF ANTHIKKAD POLICE STATION.

ANNEXURE B: CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO. 8/1999 OF ANTHIKKAD POLICE STATION.

ANNEXURE C: TRUE COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.1438 of 2015

Dated this the 13th day of March, 2015.

O R D E R

The petitioner herein is the original first accused in C.C No.677 of 2001 of the Judicial First Class Magistrate Court-II, Thrissur. During the proceeding the other three accused and the de facto complainant settled the dispute amicably out of court, and accordingly the original accused Nos. 2 to 4 obtained a judgment of acquittal on composition under Section 320 (8) Cr.P.C on 13.11.2002. The case against the petitioner was split up and refiled as C.C No.571 of 2003. After necessary procedure, it was transferred to the register of long pending cases when the presence of the petitioner could not be procured in spite of repeated warrants and other coercive measures. Now the case is pending as L.P 262 of 2008. The petitioner seeks orders quashing the prosecution on the ground of settlement with the de facto complainant. I am not inclined to exercise the powers under Section 482 Cr.P.C in

this case for two reasons. One is that the offences are compoundable under the law, and the parties can very well approach the trial court itself for composition under Section 320 Cr.P.C. The other is that a person who has been absconding for years and who did not care to surrender in court in spite of repeated warrants and other coercive measures, cannot be given orders under Section 482 Cr.P.C. The parties will have to approach the trial court for composition. Of course, it is true that now the offence under Section 324 IPC is not compoundable. But as on the date of commission of the offence in this case, the offence under Section 324 IPC was well compoundable under the law, and so the parties can very well approach the trial court for composition. The petitioner's apprehension appears to be that he will be remanded, if he surrenders before the learned Magistrate. Of course, if proceedings are there under Section 446 Cr.P.C, he will have to face it. But I do not think that he will be remanded to custody, when composition is reported and filed in court. The learned Magistrate will accept it, if the composition is proper and acceptable. As regards the other procedure initiated under

Section 446 Cr.P.C, the necessary consequences will have to follow.

With the above observations, this Crl.M.C is closed, with direction to the parties to approach the trial court itself for composition under Section 320 Cr.P.C.

P.UBAID,
JUDGE

sab