

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

Cr1.MC.No. 1478 of 2015

IN L.P.C NO.9/2010 OF THE ASSISTANT SESSIONS COURT, PAYYANNUR

CRIME NO. 77/2000 OF PAYYANNUR POLICE STATION, KANNUR

PETITIONER:

HARIS, AGED 42 YEARS,
S/O.ASSAINARKUTTY, RAMANTHALI AMSOM,
VADAKKUMBAD,
KANNUR DISTRICT

BY ADVS.SRI.ZUBAIR PULIKKOOL
SRI.P.S.BINU

RESPONDENTS:

1. BHASKARAN.K, AGED 41 YEARS,
S/O.KUNHAMBU, KALASAKKARAN HOUSE,
RAMANTHALI AMSOM,
VADAKKUMBAD, KANNUR DISTRICT, PIN 670001
2. ANEESH KUMAR, AGED 37 YEARS,
S/O.KUNHIRAMAN, RAMANTHALI AMSOM, VADKKUMBAD,
KANNUR DISTRICT, PIN 670001
3. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, PIN-682031

R1-2 BY ADV. SMT.P.A.ANEESHA
R3 BY SR.PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1478 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE I: COPY OF THE FIR AND POLICE CHARGE IN CRIME 77/2009 OF
PAYYANNUR POLICE STATION

ANNEXURE II: COPY OF JUDGMENTN IN S.C NO. 230/07 OF ASSISTANT
SESSIONS COURT, PAYYANNUR

ANNEXURE III: ORIGINAL AFFIDAVIT OF 1ST RESPONDENT

ANNEXURE IV: ORIGINAL AFFIDAVIT OF 2ND RESPONDENT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.1478 of 2015

Dated this the 10th day of March, 2015

O R D E R

The petitioner herein is the original 2nd accused in S.C No.230/2007 of the Assistant Sessions Court, Payyannur. At the initial stage the case against four accused was committed to the Court of Session. The case against the other three accused was split up in the committal court itself. The original accused Nos.1, 3 and 5 faced prosecution before the learned Assistant Sessions Judge, Payyannur and obtained a judgment of acquittal on 8.9.2009 under Section 232 of the Code of Criminal Procedure when all the material witnesses fully turned hostile to the prosecution. The case against the petitioner herein was split up in the Court of Session, and it now stands transferred to the register of long pending cases as L.P.C No.9/2010. He now seeks orders quashing the prosecution on the ground that the very substratum of the prosecution case is totally lost by acquittal of the others, and continuance of the prosecution against him will not serve any purpose. Amicable settlement of the whole dispute between him and the

complainant is also another ground to quash the prosecution. The defacto complainant Bhaskaran and also the other injured Aneesh Kumar are the respondents 1 and 2 in this proceeding. They have filed affidavit to the effect that they have settled the whole dispute with the accused, and they have no grievance or complaint now. Even otherwise, the prosecution against the petitioner is liable to be quashed in view of the acquittal of other accused. The prosecution cannot in any manner improve the case against the petitioner if the case goes to trial. Practically, continuance of the prosecution against the petitioner herein will be a sheer waste of time.

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. 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 petitioner herein in S.C No.230/2007 (now pending as L.P.C No.9/2010) of the Assistant Sessions Court, Payyannur will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

ab