

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

CrI.MC.No. 1620 of 2015 ()

CRIME NO. 528/2010 OF KOOTHATTUKULAM POLICE STATION , ERNAKULAM

PETITIONER(S)/ACCUSED :

UNNIKRISHNAN B., AGED 49 YEARS
S/O.BHASKARA KAIMAL, JYOTHIS, PUTHIYAKAVU
(RESIDING AT 913, ROYAL FORTRESS FLAT
NADAMA THEKKUMBHAGOM VILLAGE
PUTHIYAKAVU KARA) TRIPUNITHURA-682 301
ERNAKULAM DISTRICT.

BY ADVS.SRI.C.ANILKUMAR (KALEESSERIL)
SRI.C.Y.VINOD KUMAR

RESPONDENT(S)/COMPLAINANT-DEFACTO COMPLAINANT & CW6:

1. STATE OF KERALA,
(REP. BY THE SUB INSPECTOR OF POLICE
KOOTHATTUKULAM POLICE STATION-CR.NO.528/2010 OF
KOOTHATTUKULAM POLICE STATION)
REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. JOY VARGHESE,
SECRETARY, K.K.J.FOUNDATIONS, NAYANA GARDENS
PONKUTTY, ELANJI PO, ERNAKULAM DISTRICT-686 665.
3. K.K.J.FOUNDATIONS,
NAYANA GARDENS, PONKUTTY, ELANJI PO
ERNAKULAM DISTRICT-686 665
REP. BY ITS CHAIRMAN K.K.JOSEPH.
4. K.K.JOSEPH,
CHAIRMAN, K.K.J.FOUNDATIONS, NAYANA GARDENS
PONKUTTY, ELANJI PO, ERNAKULAM DISTRICT-686 665.

R1 BY PUBLIC PROSECUTOR SRI.GITHESH R.
R2-R4 BY ADV. SRI.JELSON J.EDAMPADAM

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
28-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1620 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE A1 :** CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.528/2010 OF KOTHATTUKULAM POLICE STATION ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT, KOTHATTUKULAM.
- ANNEXURE A2 :** TRUE COPY OF THE PLAINT IN OS.NO.100/2009 DATED 25.03.2009 FILED BY THE PETITIONER BEFORE THE SUB COURT, MUVATTUPUZHA.
- ANNEXURE A3 :** TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS ON 29.08.2009 IN OS.NO.100/2009 ON THE FILE OF THE SUB COURT, MUVATTUPUZHA.
- ANNEXURE A4 :** TRUE COPY OF THE AWARD DATED 10.10.2013 IN KELSA NO.157/2013 HELD IN THE LOK ADALATH, AT THE FAMILY COURT, MUVATTUPUZHA.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

ALEXANDER THOMAS, J.

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Crl.M.C.No.1620 of 2015

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Dated this the 28th day of July, 2015

ORDER

The petitioner seeks orders to quash the F.I.R and further proceedings in Crime No.528/2010 of Koothattukulam Police Station, registered under Sections 406 & 420 of Indian Penal Code. 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 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. The other persons involved in the alleged incident are the respondents 3 & 4. They have also filed affidavit to the effect that they have settled the dispute with the accused and they have no grievance or complaint now.

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 affidavit 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 Annexure.A1 final report/charge sheet and further proceedings arising out of crime No.528/2010 of Koothattukulam Police Station, including all further proceedings arising out of C.C.No.90/2014 on the file of the Judicial First Class Magistrate's Court, Koothattukulam, Ernakulam district, pending against the petitioner herein will stand quashed

under Section 482 of the Code of Criminal Procedure.

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

Sd/-
ALEXANDER THOMAS
JUDGE

VS