

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

CrI.MC.No. 1718 of 2015 ()

**IN SC 1068/2014 of SUB COURT, HOSDRUG
CRIME NO. 504/2012 OF HOSDURG POLICE STATION , KASARGOD**

PETITIONER(S)/ACCUSED 1 AND 2:

- 1. MUHAMMED JASIM AGED 30 YEARS
S/O. KUNHAMMED, T.K. HOUSE, ATHINJAL
AJANOOR VILLAGE, KASARAGOD DISTRICT.**
- 2. MUHAMMED ANAS,
S/O. MOHAMMED KUNJI, POONKAVANAM, ATHINJAL
AJANOOR VILLAGE, KASARAGOD DISTRICT.**

**BY ADVS.SRI.RAHUL SASI
SMT.NEETHU PREM**

RESPONDENT(S)/COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. VIJESH B.
S/O. RAJAN K., AJANOOR KADAPPURAM, AJANOOR VILLAGE
KASARAGOD DISTRICT.**

**R2 BY ADV. SRI.SAJIN JOSEPH
R1 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. P.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17-03-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1718 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: TRUE COPY OF THE FINAL REPORT IN CRIME NO.504 OF 2012 OF
HOSDURG POLICE STATION**

ANNEXURE B: AFFIDAVIT DATED 09.12.2014 SUBMITTED BY 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 1718 of 2015

Dated this the 17th day of March, 2015.

O R D E R

The petitioners herein are the two accused in S.C No.1068 of 2014 of the Assistant Sessions Court, Hosdurg. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 341, 323, 324, 308 r/w 34 of IPC on the complaint of one Vijesh who is the second 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. 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 proceedings 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. On a perusal of the materials including the Final Report I find nothing for a prosecution under Section 308 IPC. Such a section was incorporated by the police on the basis of a purely hypothetical statement.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C No.1068 of 2014 of the Assistant Sessions Court, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

P.UBAID,
JUDGE