

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

Crl.MC.No. 1744 of 2015 ()

**CP 97/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT,VADAKARA
CRIME NO. 257/2014 OF VATAKARA POLICE STATION, KOZHIKODE DISTRICT**
=====

PETITIONER/ACCUSED:

**ISMAIL, AGED 43 YEARS, S/O. USMAN
VANIYAM VEETIL HOUSE, KURINJALYODU PO
MUYIPRA, VATAKARA TALUK**

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENTS/COMPLAINANT:

**1. LATHEEF, S/O. ABDULLA, AGED 30 YEARS
HIDAYATH MANZIL, HOUSE
VAIKKILISSERY AMSOM, VATAKARA TALUK
KOZHIKODE DISTRICT-673101**

**2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT
OF KERALA,ERNAKULAM**

R1 BY ADV. SMT.P.A.ANEESHA

R2 BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 1744 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE 1: TRUE COPY OF FINAL REPORT IN CRIME NO.257/2014 VATAKARA
POLICE STATION**

ANNEXURE 2: SWORN AFFIDAVIT OF 1ST RESPONDENT

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1744 of 2015

Dated this the 18th day of March, 2015

O R D E R

The petitioner herein is the accused in C.P.No.97/2014 of the Judicial First Class Magistrate Court, Vatakara. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 341, 324, 427 and 308 read with 34 IPC on the complaint of one Latheef, who is the 1st 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. On a perusal of the final report and the complaint, I find nothing for a prosecution under Section 308 IPC. Such a section was incorporated by the police in the proceeding on the basis of a purely hypothetical statement. Any way, the parties have now come to terms amicably out of court.

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 prosecution in pending proceedings, if the

parties have really settled the whole dispute amicably out of court, and continuance of further 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.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.P.No.97/2014 of the Judicial First Class Magistrate Court, Vatakara will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution and the bail bond, if any, executed by him will stand discharged.

Sd/-

P. UBAID, JUDGE

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