

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

Crl.MC.No. 1874 of 2015

AGAINST C.P NO.82/2011 (L.P NO.80/2012) OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT II, KOLLAM

CRIME NO. 887/2008 OF KOLLAM EAST POLICE STATION, KOLLAM

PETITIONER/ACCUSED:

ARUN, AGED 26 YEARS,
S/O.INDRASENAN, MUDIYILAZHIKOM HOUSE,
LAKSHMI NAGAR 171, THEKKEVILA CHERY, MUNDAKKAL,
KOLLAM DIST.

BY ADVS.SRI.K.ABDUL JAWAD
SRI.MATHEW A KUZHALANADAN

RESPONDENTS/STATE & COMPLAINANTS:

1. STATE OF KERALA
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031
2. ANIL, AGED 46 YEARS,
S/O.BHASKARAN, AJEESH BHAVAN,
PUTHEN NADA NAGAR,
THEKKEVILA CHERRY, MUNDAKKAL,
KOLLAM DIST-691001
3. BINU @ PODIMON, AGED 40 YEARS,
S/O.SIVADASAN, PAZHANJIYIL KIZHAKKATHIL,
DESHEEYA NAGAR 166, THEKKEVILA CHERRY, MUNDAKKAL,
KOLLAM DIST-691001

R2 & R3 BY ADV. SRI.S.MOHAMMED AL RAFI
R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1874 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A:-CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO 887/08
OF KOLLAM EAST POLICE STATION

ANNEXURE B:-ORIGINAL OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT

ANNEXURE C:-ORIGINAL OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1874 of 2015

Dated this the 27th day of March, 2015

O R D E R

The petitioner herein is the original 7th accused in C.P No.82/2011 which stands transferred to the register of long pending cases as L.P No.80/2012 before the Judicial First Class Magistrate Court II, Kollam. He seek 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 143, 147, 148, 506(ii), 341, 324, 326 and 308 r/w 149 of the Indian Penal Code on the complaint of one Anil 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.

2. The other person who sustained injuries in the alleged incident is the 3rd respondent in this proceeding. He has

also filed affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint now.

3. 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 other accused in the crime stands already acquitted. I find that Section 308 IPC was incorporated by the police on the basis of some hypothetical statement. 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.82/2011 (now pending cases as L.P No.80/2012) before the Judicial First Class Magistrate Court II, Kollam will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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