

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

Cr1.MC.No. 1875 of 2015

AGAINST S.C NO.252/2013 OF THE SESSIONS COURT, KASARAGOD

CRIME NO. 240/2012 OF CHEEMENI POLICE STATION, KASARGOD

PETITIONERS/ACCUSED:

1. MUHAMMED FAZAL T.P, AGED 25 YEARS,
S/O.SHAHUL HAMEED, THAYYALPURAYIL HOUSE, PAYYANNUR
KANNUR DISTRICT.
2. ANEESH.J, AGED 23 YEARS,
S/O.V.M.JANARDHANAN, NAMBIATHRA KOCHAL MADOM,
SOUTH NAZAR, PAYYANNUR, KANNUR.
3. BINOY.C, AGED 22 YEARS,
S/O.K.V.BALAN, KUNDUVALAYIL HOUSE, VELLOOR
KANNUR DISTRICT.
4. RITHWIJ.K, AGED 21 YEARS,
S/O.M.V.RAJENDRAN, V.V HOUSE, HAJI ROAD,
PAPPINISSERY WEST, KANNUR DISTRICT.
5. SHIJIN.C, AGED 23 YEARS,
S/O.MADHAVI CHEMBAN HOUSE, RANDATHANI P.O,
MALAPPURAM.
6. ROSHITH M.P, AGED 23 YEARS,
S/O.T.P.BALAKRISHNAN, MANNOOKKARA HOUSE,
THALIPARAMBU,
KANNUR DISTRICT.
7. VARUN VENU, AGED 22 YEARS,
S/O.VENU, PRANAVAM HOUSE, EDATT P.O,
PAYYANNUR, KANNUR DISTRICT.
8. VIPIN.P, AGED 22 YEARS,
S/O.PADMANABHAN, MEETHALEKANA HOUSE, KOORARA P.O,
PAYYANNUR, KANNOOR DISTRICT.
9. BHARATH M.S, AGED 21 YEARS,
S/O.SREEKUMAR S, BHADRA NIVAS, VANNATHIKKANAM,
CHEEMENI, KASARAGOD DISTRICT.

BY ADV. SRI.M.REVIKRISHNAN

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. ASHBI JOSEPH KURIAKOSE, AGED 22 YEARS,
S/O.AUGUSTINE KURIAKOSE, EARATTUPETTA,
KOTTAYAM DISTRICT.
3. RAJEES C.K,
S/O.SULAIMAN, KANNENGAL HOUSE,
THRIKKALANGODE VILLAGE,
MANJERI, MALAPPURAM - 676121.
4. ASOK K.S,
S/O.SOMAN, KAVUNGAL HOUSE, ANGADIPPURAM,
MALAPPURAM - 679 321.
5. AKHILNATH,
S/O.RAGHUNATH, BHAVANA HOUSE, THALIPPARAMBU,
KANNUR DISTRICT - 670 141.

R2 BY ADV. SRI.SANTHOSH P.PODUVAL

R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

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. 1875 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A: CERTIFIED COPY OF THE FIR IN CRIME NO. 240/2012 OF
CHEEMENI POLICE STATION.

ANNEXURE B: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.
240/2012 OF CHEEMENI POLICE STATION.

ANNEXURE C: AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

ANNEXURE D: AFFIDAVIT SWORN BY THE 3RD RESPONDENT.

ANNEXURE E: AFFIDAVIT SWORN BY THE 4TH RESPONDENT.

ANNEXURE F: AFFIDAVIT SWORN BY THE 5TH RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1875 of 2015

Dated this the 27th day of March, 2015

O R D E R

The petitioners herein are the accused in S.C No.252/2013 of the Sessions Court, Kasaragod. 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 143, 147, 148, 341, 323, 324, 326 and 308 r/w 149 of the Indian Penal Code on the complaint of one Ashbi Joseph Kuriakose who 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 now.

2. The other persons who sustained injuries in the alleged incident are the respondent Nos.3 to 6 in this proceeding. They have also filed affidavit to the effect that they have settled the whole dispute with the accused and they have 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. 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 petitioners herein in S.C No.252/2013 of the Sessions Court, Kasaragod 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.

**Sd/-
P.UBAID
JUDGE**

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