

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

Cr1.MC.No. 2059 of 2015

IN S.C 14/2014 OF THE ADDL. SESSIONS COURT - III, KASARAGOD

CRIME NO. 1174/2010 OF KASARAGOD POLICE STATION, KASARGOD

PETITIONERS/ACCUSED:

1. FAHAD, AGED 26 YEARS,
S/O.SAFIYA, EAST TO NGO HOUSE, B.C.ROAD,
VIDYANAGAR, KASARAGOD.
2. ABDUL RAZIK C.M,
S/O.C.M.UMMER, ANAZ MANZIL, CHALA,
VIDYANAGAR, KASARAGOD.
3. MANZOOR M. AGED 24 YEARS,
S/O.MUHAMMEDKUNHI, DRISYA HOUSE, B.C.ROAD,
VIDYANAGAR, KASARAGOD.
4. SAIFUDDEEN C.A, AGED 23 YEARS,
S/O.ABDULRAHIMAN, CHALA, VIDYANAGAR,
KASARAGOD.
5. SHAMFUDDEEN C.A, AGED 23 YEARS,
S/O.ABOOBACKER, S.S.MANZIL, CHALA
VIDYANAGAR, KASARAGOD.
6. MUHAMMED NOUSHAD K.K. AGED 23 YEARS,
S/O.ABDULLAKUNHI, ANWAR IDEEN MANZIL, KOTTA,
NADUMPALLAM, MOGRALPUTHUR, KASARAGOD.
7. SHAMSUDDEEN P.H, AGED 25 YEARS,
S/O.HASSAINAR, NAZEEMA MANZIL, KEEZHOOOR,
CHANDRAGIRI, KALANAD VILLAGE, KASARAGOD.

BY ADV. SRI.S.JIJI

RESPONDENTS/STATE AND DE-FACTO COMPLAINANT:

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

2. JAYARAJ, AGED 27 YEARS,
S/O.KRISHNAN NAIR, AYAROTTAMALLA HOUSE,
KODOTH VILLAGE
HOSDURG TALUK, KASARAGOD.

R2 BY ADV. SMT.K.S.SANTHI

R1 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 2059 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL REPORT IN CRIME NO.1174/2010 OF KASARAGOD POLICE STATION.

ANNEXURE A2: AFFIDAVIT DATED 20.2.2015

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.2059 of 2015

Dated this the 7th day of April, 2015

O R D E R

The petitioners herein are the seven accused accused in S.C No.14/2014 of the Additional Sessions Court III, 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, 341, 324 and 308 r/w 149 of the Indian Penal Code on the complaint of one Jayaraj 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. 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. On a perusal of the final report and the FIR I find nothing to constitute the offence under Section 308 of the Indian Penal Code. The said section was incorporated in the proceedings 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.14/2014 of the Additional Sessions Court III, 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.

ab

**P.UBAID
JUDGE**