

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

CrI.MC.No. 2238 of 2015 ()

AGAINST SC 411/2013 of ADDL. DISTRICT COURT, TIRUR
CRIME NO. 59/2011 OF KALPAKANCHERY POLICE STATION , MALAPPURAM

PETITIONER(S):

1. ABOOBAKKAR AGED 37 YEARS
S/O.MARAKKAR, KALACHATHERI HOUSE, ATRASSERY POST
MALAPPURAM DISTRICT
2. SALMAN AGED 25 YEARS
S/O.MARAKKAR, KALACHATHERI HOUSE, ATRASSERY POST
MALAPPURAM DISTRICT

BY ADV. SRI.K.P.SUDHEER

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI 682031
REPRESENTING SUB INSPECTOR OF POLICE
KALPAKANCHERY POLICE STATION, KALPAKANCHERY 676551
MALAPPURAM DISTRICT
2. MOHAMMEDKUTTY, AGED 59 YEARS
S/O.KUNJIMOIDHEEN KUTTY, KUNNATH HOUSE, KUTTIPPALA PO
KAZHUNGILAPPADI, MALAPPURAM DISTRICT, PIN 676501
3. ABDURAHIMAN, AGED 40 YEARS
S/O.MOIDHEEN, KUNNATH HOUSE, KAZHUNGIL
KUTTIPPALA PO, MALAPPURAM DISTRICT, PIN 676501
4. SAINUDHEEN, AGED 38 YEARS
S/O.MOIDHEENKUTTY, POOZHITHARA HOUSE, KUTTIPPALA PO
KAZHUNGILAPPADI, MALAPPURAM DISTRICT, PIN 676501
5. SUNIL KUMAR
S/O.THAMI, POOZHITHARA QUARTERS, KUTTIPPALA PO
KAZHUNGILAPPADI, MALAPPURAM DISTRICT, PIN 676501
6. HANEEFA, AGED 39 YEARS
S/O.ABDUL KHADER, ANAMCHIRAKKAL, KUTTIPPALA PO
KAZHUNGILAPPADI, MALAPPURAM DISTRICT, PIN 676501

7. ASHRAF, AGED 44 YEARS
S/O.KUNJIMOHAMMED KUTTY, KADAKKADAN HOUSE
KUTTIPPALA PO, KAZHUNGILAPPADI, MALAPPURAM DISTRICT
PIN 676501

8. SHARAFALI, AGED 26 YEARS
S/O.MOHAMMEDKUTTY, KUNNATH HOUSE, KUTTIPPALA PO
KAZHUNGILAPPADI, MALAPPURAM DISTRICT, PIN 676501

R2-8 BY ADV. SRI.ARUN MATHEW VADAKKAN
R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
07-04-2015 ALONG WITH CRL.M.C NO.2239 OF 2014 , THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE AI: CERTIFIED COPY OF FIRST INFORMATION REPORT DATED 22.02.2011 IN CRIME NO.59/2011 OF KALPAKANCHERRY POLICE STATION.

ANNEXURE A2: CERTIFIED COPY OF FINAL REPORT DATED 31.05.2011 IN CRIME NO.59/2011 OF KALPAKANCHERRY POLICE STATION.

ANNEXURE A3: TRUE COPY OF AFFIDAVIT DATED 31.03.2015 OF THE 2ND RESPONDENT

ANNEXURE A4: TRUE COPY OF AFFIDAVIT DATED 30.03.2015 OF THE 3RD RESPONDENT

ANNEXURE A5: TRUE COPY OF AFFIDAVIT DATED 31.03.2015 OF THE 4TH RESPONDENT

ANNEXURE A6: TRUE COPY OF AFFIDAVIT DATED 31.03.2015 OF THE 5TH RESPONDENT

ANNEXURE A7: TRUE COPY OF AFFIDAVIT DATED 30.03.2015 OF THE 6TH RESPONDENT

ANNEXURE A8: TRUE COPY OF AFFIDAVIT DATED 31.03.2015 OF THE 7TH RESPONDENT

ANNEXURE A9: TRUE COPY OF AFFIDAVIT DATED 30.03.2015 OF THE 8TH RESPONDENT

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.2238 & 2239 of 2015**  
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Dated this the 7th April, 2015

ORDER

The petitioners in Crl.M.C No.2238 of 2015 are the accused Nos 1 and 5 in Crime No.59 of 2011 of the Kalpakanchery Police Station, and the petitioners in Crl.M.C No.2239 of 2015 are the accused Nos.2 to 4 in the said crime. The offences involved are under Sections 143, 147, 148, 323, 324 and 308 read with Section 149 of Indian Penal Code. The petitioners now seek orders quashing the prosecution. The case against the petitioners in Crl.M.C No.2238 of 2015, filed as as S.C No.411 of 2013, now stands transferred to the register of long pending cases as L.P. 3 of 2015 before the Assistant Sessions Court, Tirur. The case against the petitioners in Crl.M.C 2239 of 2015 is now pending before the same court as S.C No.295 of 2012. Crime in this case was registered on the complaint of one Mohammedkutty who is the 2nd respondent in these proceedings 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 respondents 3 to 8 in these proceedings. They have also filed separate 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. 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 in S.C 411 of 2013, which now stands transferred to the register of long pending cases as L.P.3 of 2015, and in S.C.295 of 2012, of the of the Assistant Sessions Court, Tirur will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge