

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

CrI.MC.No. 2373 of 2015 ()

**SC.NO. 5/2011 OF SESSIONS COURT, KAVARATHY
CRIME NO. 11/2009 OF AMINI POLICE STATION , LAKSHADWEEP**

PETITIONER/ACCUSED NO.4:

**CHERIYAKOYA POOVAKECHETTA,
S/O.ATTAKOYA, AGED 27 YEARS,
POOVAKECHETTA HOUSE, AMINI ISLAND,
UNION TERRITORY OF LAKSHADWEEP.**

**BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM**

RESPONDENT(S)/COMPLAINANT:

- 1. THE UNION TERRITORY OF LAKSHADWEEP,
REPRESENTED BY ITS STANDING COUNSEL,
HIGH COURT OF KERALA AT ERNAKULAM.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
AMINI POLICE STATION,
UNION TERRITORY OF LAKSHADWEEP. PIN-688 001**
- 3. KUNJIBI,
D/O.LATE KINJIKOYA, AGED 59 YEARS,
KANNOL HOUSE, AMINI,
UNION TERRITORY OF LAKSHADWEEP. PIN-688 001**
- 4. NALLKOYA,
S/O.LATE CHERIYAKOYA HAJI, BELI HOUSE, AMINI,
UNION TERRITORY OF LAKSHADWEEP. PIN-688 001**

**R1 & R2 BY ADV. SRI.S.RADHAKRISHNAN,SC,LAKSHADWEEP ADMN
R3 & R4 BY ADV. SRI.PHILIP J.VETTICKATTU**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX-1:** THE CERTIFIED COPY OF THE FINAL REPORT SUBMITTED BY THE 2ND RESPONDENT IN CRIME 11/2009 NOW PENDING TRIAL BEFORE THE HONOURABLE SESSION COURT, KAWARATTI AS S.C.NO.5/2011.
- ANNEX-A2:** ORIGINAL OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT DATED 24/03/2015.
- ANNEX-A3:** ORIGINAL OF THE AFFIDAVIT SWORN BY THE 4TH RESPONDENT DATED 24/03/2015.
- ANNEX-A4:** THE ORIGINAL AFFIDAVIT OF THE CWS 2 DATED 24/03/2015.
- ANNEX-A5:** THE ORIGINAL AFFIDAVIT OF THE DWS 3 DATED 24/3/2015.
- ANNEX-A6:** THE ORIGINAL AFFIDAVIT OF THE CWS 4 DATED 24/03/2015.
- ANNEX-A7:** THE ORIGINAL AFFIDAVIT OF THE CWS 5 DATED 24/03/2015.
- ANNEX-A8:** THE ORIGINAL AFFIDAVIT OF THE CWS 6 DATED 24/03/2015.
- ANNEX-A9:** TRUE COPY OF THE NOTIFICATION BEARING NO. F NO.10/25/1996-AC (F) DATED 4.03.2015.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.S.TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No.2373 of 2015

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Dated this the 30th day of July, 2015

O R D E R

The petitioner herein is the 4th accused in the impugned Anx.A-1 final report/charge sheet filed in Crime No.11/2009 of Amini Police Station, registered for offences punishable under Secs.448, 436, 427, 188, 380 r/w. Sec.34 of the I.P.C., which has led to the institution of Sessions Case, S.C.No.5/11 on the file of the Sessions Court, Kavaratti. The allegation against the petitioner herein and the other accused persons is that while prohibitory order under Sec.144 of the Code of Criminal Procedure was in force, on 12.4.2009, by violating the said order, the accused persons, who were workers of Nationalist Congress Party (N.C.P), in furtherance of their common intention, had trespassed into the shop owned by the defacto complainant, Sri.Pookoya, situated in 7th Ward of Amini Dweep Panchayath, by destroying the shutter and had taken away the textile items from the said shop. The defacto complainant is no more, who had no children and the shop, which was allegedly attacked by the accused persons, is now being run by the 4th

respondent herein, who is the brother of the defacto complainant. That later having realised the fact that the petitioner was not involved in the incident, the wife and the brother of the defacto complainant, who are arrayed as respondents 3 and 4 herein, have arrived at a settlement with the petitioner and that they have sworn to Anxs.A-3 and A-2 affidavits respectively before this Court, wherein it is stated that they have settled the entire disputes with the petitioner and that they have no objection for quashment of the impugned criminal proceedings pending against the petitioner herein. It is in the light of these aspects that the petitioner has preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against him.

2. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the

precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. State of Punjab and anr.* reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment. Accordingly, it is ordered in the interest of justice that the impugned Anx.A-1 final report/charge sheet filed in Crime No.11/2009 of Amini Police Station, which has led to the institution of Sessions Case, S.C.No.5/11 on the file of the Sessions Court, Kavaratti, and all further proceedings arising therefrom pending against the petitioner herein stand quashed.

With these observations and directions, the Criminal Miscellaneous Case stands finally disposed of.

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ALEXANDER THOMAS, JUDGE
///True copy///

P.S. to Judge

