

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

Crl.MC.No. 2578 of 2015 ()

CRIME NO. 787/2012 OF POOYAPPALLY POLICE STATION,KOLLAM DISTRICT

PETITIONER(S)/ACCUSED 1 TO 4 :

1. RAJAMMA, AGED 50 YEARS, (A1),W/O.LATE GEORGE KUTTY,
PALLATHU KUZHIVILA PUTHEN VEEDU, CHENKULAM MURI,
CHENKULAM P.O, POOYAPPALLY VILLAGE, KOTTARAKKARA TALUK,
KOLLAM, PIN -691 510
2. RAJI GEORGE, AGED 27 YEARS,(A2), D/O.RAJAMMA,
PALLATHU KUZHIVILA PUTHEN VEEDU,
CHENKULAM MURI, CHENKULAM P.O, POOYAPPALLY VILLAGE,
KOTTARAKKARA TALUK, KOLLAM, PIN -691 510
3. RANI GEORGE, AGED 25 YEARS (A3), D/O.RAJAMMA,
PALLATHU KUZHIVILA PUTHEN VEEDU,
CHENKULAM MURI, CHENKULAM P.O, POOYAPPALLY VILLAGE,
KOTTARAKKARA TALUK, KOLLAM, PIN- 691 510
4. RAJANI GEORGE, AGED 21 YEARS,(A4),D/O.RAJAMMA,
PALLATHU KUZHIVILA PUTHEN VEEDU,
CHENKULAM MURI, CHENKULAM P.O, POOYAPPALLY VILLAGE,
KOTTARAKKARA TALUK, KOLLAM, PIN- 691 510

BY ADV. SRI.B.DIPU SACH DEEV

RESPONDENT(S)/DEFACTO COMPLAINANT/STATE :

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. BABU, AGED 45 YEARS, S/O.PODIYAN,
THODIYIL KIZHAKKATHIL VEEDU, MUDIYOORKONNAM,
CHENKULAM.P.O., OYOOR, KOTTARAKKARA TALUK,
KOLLAM,PIN-691 510

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB
R2 BY ADV. SRI.ARUN BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

sts

Crl.MC.No. 2578 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX I: CERTIFIED COPY OF THE FIR NO.787/2012 OF POOYAPPALLY
POLICE STATION**

ANNEX II: COPY OF THE PLAINT IN OS.NO.165/2012

ANNEX III: ORIGINAL AGREEMENT DATED ON 22.08.2012

**ANNEX IV: COPY OF THE JUDGEMENT IN OS.NO.165/2012 BEFORE THE MUNSIF
COURT, KOTTARAKKARA**

ANNEXV: AFFIDAVIT SIGNED BY THE 2ND RESPONDENT AND WITNESSES

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Dated this the 28th day of May, 2015.

ORDER

Petitioners are accused Nos.1 to 4 respectively in Annexure-I FIR in Crime No.787/2012 of Pooyappally Police Station registered for offences under Secs.294(b), 323, 341 r/w 34 IPC. The alleged incident in the crime said to have been occurred on 18.8.2012 is set up as a aftermath of the disputes between the parties relating to a pathway in which Annexure-II civil suit is pending. Later, the disputes between the 1st petitioner and 2nd respondent herein were resolved by settlement as evident from agreement dated 22.8.2012 in respect of the civil suit. Based on the said agreement dated 22.8.2012, the court below has rendered its verdict in the civil suit as per Annexure-IV judgment. Accordingly, the disputes between the parties have been settled and the contesting respondent does not want to prosecute the matter any further. In the light of such agreement, the prayer for quashment of the impugned criminal proceedings has been made out in this Crl.M.C.

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2. Heard Sri.B.Dipu Sach Dev, learned counsel for the petitioner and Sri.Arun Babu, learned counsel for the 2nd respondent and the learned Public Prosecutor appearing for the 1st respondent-State.

3. The petitioner has reiterated his submissions in the Crl.M.C. Sri.Arun Babu, learned counsel for the 2nd respondent-defacto complainant has submitted that the 2nd respondent has no objection in granting the prayer for quashing the impugned criminal proceedings and that the matter has been settled between the parties as evident from Annexure-III agreement and Annexure-V affidavit sworn to by the defacto complainant and that the 2nd respondent does not want to prosecute the matter any further and this Court may consider the prayer of the petitioners for quashment of the impugned criminal proceedings.

4. Learned Public Prosecutor submits that this Court may consider the prayer for quashment of the impugned criminal proceedings in view of the legal principles laid down by the Apex Court on those aspects of the matter.

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5. On a consideration of the facts and circumstances, it is seen that the incident in respect of the crime which is said to have been occurred on 18.8.2012 are in relation to the disputed pathway which the subject matter of the civil suit pending then in Annexure-II. The matter was resolved as per agreement dated 22.8.2012 in pending civil suit which resulted in Annexure-IV judgment of the Munsiff Court, Kottarakkara in O.s.No.165/2012. The 2nd respondent has sworn to Annexure-V affidavit stating that he has no objection in quashing the impugned criminal proceedings against the petitioner etc., as the parties resolved their disputes as borne out by Annexure-V affidavit and as the entire disputes regarding the pathway have also been satisfactorily resolved through settlement. In this view of the matter, this Court is of the considered opinion that the prayer of the petitioners for quashment of the impugned criminal proceedings could be considered.

Accordingly, in the interest of justice it is ordered that the impugned Annexure-I FIR in Crime No.787/2012 of Pooyappally

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Police station and all further proceedings arising therefrom pending against the petitioners stand quashed. The petitioners shall produce a certified copy of this order before the Station House Officer concerned as well as before the court below concerned.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-