

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.2717 of 2015

**LPC NO.33/2014 of THE JUDICIAL FIRST CLASS MAGISTRATE-I,KASARAGOD.
CRIME NO.438/2006 OF KASARAGOD POLICE STATION,KASARGOD.**

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PETITIONER/ACCUSED NO.1:

**PAN NARAYANAN,AGED 50 YEARS,S/O.KORAGAN,
THEKKEKKARA HOUSE,THEKKEKKARA,UDMA,
HOSDURG TALUK,KASARAGOD.**

BY ADV.SRI.A.ARUNKUMAR

RESPONDENT'S/COMPLAINANT/STATE:

- 1. A.SUHARA,AGED 49 YEARS,D/O.A.M.ABDULLAKUNHI AND
W/O.K.M.ABDULKHADER,KOLIYAD HOUSE,
NEAR MALIK DEENAR HOSPITAL,
THALANGARA VILLAGE,KASARAGOD DISTRICT - 671 121.**
- 2. STATE OF KERALA,REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682 031.**

R1 BY ADV. SRI.P.K.SUBHASH

R2 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.

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

pk

Crl.MC.No.2717 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

- ANNX.A1 - A TRUE COPY OF THE FINAL REPORT IN CRIME NO.438 OF 2006
OF KASARAGOD POLICE STATION.**
- ANNX.A2 - A TRUE COPY OF THE JUDGMENT DATED 23-04-2011 IN C.C.NO.174
OF 2008 OF JUDICIAL FIRST CLASS MAGISTRATE-I, KASARAGOD.**
- ANNX.A3 - A TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 1ST
RESPONDENT ENDORSING THE FACTUAM OF SETTLEMENT.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

ALEXANDER THOMAS, J.

Crl.M.C.No.2717 Of 2015

Dated this the 28th day of May, 2015.

ORDER

The petitioner is the accused No.1 in Crime No.438/2006 of Kasaragod Police Station registered for offences under Secs.384 & 120 (B) IPC. The prosecution allegation is that the son of CW1 is in Gulf and Accused No.1 had restrained the son of CW1 in Gulf and all accused hatched criminal conspiracy to extort money from PW1, on 25.5.2006 at 3:30 p.m., accused Nos.2 to 5 went to the house of CW1 and threatened her to deliver Rs. 2 Lakhs to release the son from the confinement and obtained Rs. 2 Lakhs from CW1 and thereby committed the offences as alleged. The main plea taken up for quashment of the impugned criminal proceedings is that the co-accused 2 to 6 have already been acquitted by the court below as per Annexure-AII judgment and that accused Nos.4 & 5 are no more. It is contended that the substratum of prosecution case is shattered by the acquittal of the co-accused as per Annexure-AII judgment and no meaningful purpose will be served in continuing the criminal proceedings. It is also submitted that the disputes between the parties

Crl.M.C.No.2717 Of 2015

arose due to some other aspects and that the petitioner and the 1st respondent (defacto complainant) have amicably resolved their disputes as borne out by Annexure-AIII affidavit filed before this Court in this case.

2. Heard Sri.A.Arunkumar, learned counsel for the petitioner, and Sri.P.K.Subhash, learned counsel appearing for the 1st respondent and the learned Public Prosecutor appearing for the 2nd respondent-State of Kerala.

3. The petitioner has reiterated his submissions in the Crl.M.C. Sri.A.Arunkumar, learned counsel for the 1st respondent-defacto complainant has submitted that the 1st respondent has no objection in granting the prayer for quashing the impugned criminal proceedings and that the matter has been settled and in view of the acquittal of the co-accused, no meaningful purpose will be subserved in the conduct the criminal proceedings against the petitioner.

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.

Crl.M.C.No.2717 Of 2015

5. On a consideration of Annexure-AII judgment, it can be seen that the court below found that the incident is said to have been on 25.5.2006 and the FIR was registered with a long delay of more than a month and PW1 did not state about the reason for the delay and there was no satisfactory explanation given by any of the witnesses to explain the delay. In spite of repeated warrants CW2 or CW3 did not appear and give evidence before the court below. The case of the prosecution is that the accused persons went to the house of PW1 in the said car. But driver of the car did not support the prosecution case. There was no evidence regarding the amount allegedly given by PW1 to the accused at any point of time. There was no evidence that PW1 had taken a loan for the purpose of giving the money to the son. There was no evidence before the court to connect the seized vehicle with the crime etc. Though the prosecution case was that there was a phone call by the son of PW1 to PW1 about the incident, no such details of phone calls were marked before the court. During cross-examination PW5 admitted that he did not question any of the officials in the Telephone Department and the investigating officer stated before the court below that he does not know whether the son of PW1 was in Gulf. The evidence before the court below does not show the involvement of accused Nos.2 & 6 in that

Crl.M.C.No.2717 Of 2015

crime and there was no evidence against them so as to connect them with the crime. In this view of the matter the court below acquitted the c-accused. Moreover, the disputes between the parties have been amicably settled as borne by Annexure-AIII. On an overall assessment of the acquittal of the co-accused vide Annexure-AII judgment and settlement made out between the parties, this Court is of the considered opinion that continuation of the impugned criminal proceedings will not subserve any meaningful purpose.

6. In this view of the matter, the impugned Annexure-AI Final Report/Charge Sheet filed in Crime No.438/2006 of Kasaragod Police Station which has led to the pendency of L.P.C.No.33/2014 on the file of the Judicial First Class Magistrate Court-I, Kasaragod and all further proceedings pending against the petitioner arising therefrom pending against the petitioner shall stand quashed.

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

ALEXANDER THOMAS,
Judge.

bkn/-