

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Crl.MC.No. 3039 of 2015 ()

AGAINST SC 1650/2011 of ASSISTANT SESSIONS COURT,KOLLAM

PETITIONER(S)/ACCUSED 1-6:

1. LALU AGED 27 YEARS
S/O.SURENDRAN, VADAKKE PULIMOODU VEEDU
VENPALAKKARA NAGAR, THAZHATHU CHERRY
MAYYANADU VILLAGE, KOLLAM DISTRICT.
2. MAHIN AGED 27 YEARS
S/O.MUHAMMED KUNJU, KOCHADATHU VADAKKATHIL VEEDU
THEKKEVILA CHERRY, MUNDAKKAL VILLAGE
NOW RESIDING AT NEAR VALATHUNGAL CHAPPATHU
KOLLAM DISTRICT.
3. MURUKAN AGED 25 YEARS
S/O.KESAVAN, SABU MANDIRAM-57
PADINJARE VENPALAKKARA NAGAR, ARATTUKULAM
THAZHATTU CHERRY, MAYYANADU VILLAGE.
4. SHAMNAD AGED 23 YEARS
S/O.NUJUMUDEEN, SHAMNAD MANZIL
WEST OF KUTTIKADA KAVITHA THEATRE
VALATHUNGAL CHERRY, ERAVIPURAM VILLAGE
KOLLAM DISTRICT.
5. PRASANTH AGED 24 YEARS
S/O.PRASAD, PRASANTH BHAVAN, NO.46
PADINJARE VENPALAKKARA NAGAR, ARATTUKULAM
THAZHATTU CHERRY, MAYYANADU VILLAGE, KOLLAM.
6. SYAM AGED 23 YEARS
S/O.PRAHALADAN, SYAM NIVAS, NEAR KUTTIKADA
THAZHATTU CHERRY, MAYYANADU VILLAGE.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
2. SUB INSPECTOR OF POLICE
ERAVIPURAM POLICE STATION, KOLLAM DISTRICT-691001.

3. SHAMNAD
S/O.SHARAFUDEEN, THATTANATH KIZHAKKATHIL
TAZHATHU CHERRY, MAYYANADU VILLAGE
KOLLAM DISTRICT-691001.

R3 BY ADV. SMT.S.S.SAILAKSHMI
R1 & R2 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 31-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 3039 of 2015

APPENDIX

PETITIONERS EXHIBITS:

ANNEXURE A1: COPY OF THE CHARGE IN S.C. NO.1650/2011 BEFORE THE ASSISTANT SESSIONS COURT, KOLLAM.

ANNEXURE A2: TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND 3RD RESPONDENT

ANNEXURE A3: TRUE COPY OF THE DEATH CERTIFICATE OF THE DE FACTO COMPLAINANT, MANIAMMA IN THE CASE

RESPONDENTS EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.3039 of 2015**  
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Dated this the 31st July, 2015

ORDER

The petitioners herein are the six accused in S.C No.1650 of 2011 of the Assistant Sessions Court, Kollam. 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, 148, 341, 294 (b), 506 (ii), 354, 324 and 308 read with 149 of Indian Penal Code on the complaint of one Shamnad, who is the 3rd 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. 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. On a perusal of the materials, including the complaint, I find nothing definite to attract Section 308 I.P.C. There is reason to believe that the said Section was incorporated in the proceedings by the Police on the basis of some hypothetical statement. This is only a case of assault. Anyway, the parties have now come to terms and now they are on quite cordial terms.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C No.1650 of 2011 of the Assistant Sessions Court, Kollam 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.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge