

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

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

Crl.MC.No. 3080 of 2015

SC 2255/2008 OF ASSISTANT SESSIONS JUDGE, NEYYATTINKARA

CRIME NO. 447/2006 OF VELLARADA POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED NOS 1 TO 7 :-

1. PADMAKUMAR,
S/O.PARAMESWARAN PILLA, AGE 39/06,
CHAMMANI NATTARTHALA MELE PUTHEN VEEDU,
KUNNATHUKAL VILLAGE, THIRUVANANTHAPURAM (A1) 695 001.
2. MANIKANTAN, S/O. MADHAVAN NAIR, AGE 28/06,
KUNJU VEEDU, KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM(A2) 695 001
3. RAJIMON, S/O.APPUKUTTAN NAIR, AGE 28/06,
CHANDRA NIVAS, CHAVADI WARD,
KUNNATHUKAL VILLAGE, THIRUVANANTHAPURAM(A3) 695 001
4. NALINAN,S/O.NARAYANAN NAIR,
AGE 33/06, PARAMESWARA BHAVAN,
THOLIYARAKONAM, CHAVADI WARD,
KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM(A4) 695 001
5. RAJESH, S/O. NATARAJAN NAIR,
AGE 22/06, NARAYANA VILASOM, NECHODI,
CHAVADI WARD, KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM (A5)
6. DINESH, S/O.NAGAPPAN,
AGE 23/06, TRIPTHI BHAVAN, THACHAMCODE,
CHAVADI WARD, KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM (A6)

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7. SUDHAKARAN, S/O.APPUKUTTAN NAIR,
AGE 33/06, KIZHAKKUM KARA PUTHAN VEEDU,
CHERUVAIKONAM, RANI WARD, KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM (A7)

BY ADVS.SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.V.S.THOSHIN

RESPONDENTS/DEFACTO COMPLAINANT :-

1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM THROUGH SUB INSPECTOR POLICE,
VELLARADA POLICE STATION,
THIRUVANANTHAPURAM - 695 010
2. RAJESH, S/O. VELAYUDHAN PILLAI,
AGE 28/06, KATTACHAN VILA KADAYARA
PUTHEN VEEDU, CHAVADI WARD,
KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM
(DEFACTO COMPLAINANT/CW1) 695 021.
3. PRIYA, D/O.GOMATHY, AGE 21/06,
KATTACHAN VILA KADAYARA PUTHEN VEEDU,
CHAVADI WARD, KUNNATHUKAL VILLAGE,
THIRUVANANTHAPURAM(CW2) 695 021.

R1 BY SMT.S.HYMA, PUBLIC PROSECUTOR
R2 & R3 BY ADV. SRI.T.K.BABU

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 :-

**ANNEXURE A- CERTIFIED COPY OF THE FINAL REPORT IN S.C NO.2255/08
PENDING ON THE FILE OF ASST. SESSIONS
JUDGE, NEYYATTINKARA, THIRUVANANTHAPURAM.**

**ANNEXURE B- AFFIDAVIT OF COMPROMISE OF THE 2ND
RESPONDENT SWORN TO BEFORE A NOTARY PUBLIC.**

**ANNEXURE C- AFFIDAVIT OF COMPROMISE OF THE 3RD RESPONDENT SWORN TO
BEFORE A NOTARY PUBLIC.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.3080 of 2015

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Dated this the 30th day of July, 2015

ORDER

The petitioners herein are the seven accused in S.C.No.2255 of 2008 before the learned Assistant Sessions Judge, Neyyattinkara. 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, 149, 324, 323, 308 IPC and read with Section 24 Arms Act on the complaint of one Rajesh, who is the 2nd 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. The other person who sustained injuries in the alleged incident is the 3rd respondent in this proceeding. She has also filed affidavit to the effect that she has settled the whole dispute with the accused, and she 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 further proceedings 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.

3. On a perusal of the materials including the complaint and the medical documents, I find that Section 308 IPC was in fact incorporated by the police in the proceedings on the basis of some hypothetical statement. This is only a simple case of assault in which some simple injuries were inflicted with weapon, and the offence at the most attracted is under Section 324 IPC. Anyway, the parties have come to terms, and they have resolved the dispute forever.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C.No.2255 of 2008 before the learned Assistant Sessions Judge, Neyyattinkara will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE