

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

Crl.MC.No. 3106 of 2015

SC 674/14 OF DISTRICT & SESSIONS COURT, KASARAGOD.
CRIME NO. 81/2008 OF MANJESHWAR POLICE STATION, KASARGOD.

PETITIONER/ACCUSED:

ABDUL LATHEEF, S/O.YOSUF, AGED 33 YEARS,
THAHIRA MANZIL, BEHIND CAR GARAGE,
HOIYATH NAGAR, UPPALA VILLAGE, KASARAGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT/COMPLAINANT/STATE:

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- 1. THE SUB INSPECTOR OF POLICE,**
MANJESHWAR POLICE STATION-671323.
 - 2. STATE OF KERALA,**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.
 - 3. MUHAMMED HARIF, S/O.B.M.IBRAHIM, AGED 35 YEARS,**
ZEENATH MANZIL, MADDAKKA HOUSE,
HIDAYATH NAGAR POST, UPPALA, KASARAGOD-671322.
 - 4. MOHAMED KABEER, S/O.B.M.IBRAHIM,**
AGED 42 YEARS, BAPPAITHOTTY HOUSE, UPPALA,
KASARAGOD, PIN-671322.

R1 & R2 BY PUBLIC PROSECUTOR SMT.S.HYMA
R3 BY ADV. SRI.CIBI THOMAS

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-05-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE I :** TRUE COPY OF THE FINAL REPORT.
- ANNEXURE II :** TRUE COPY OF THE JUDGMENT IN S.C.352/2008.
- ANNEXURE III :** TRUE COPY OF THE AFFIDAVITS SWORN IN BY THE
3RD RESPONDENT.
- ANNEXURE IV :** TRUE COPY OF THE AFFIDAVITS SWORN IN BY THE
4TH RESPONDENT.

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. 3106 of 2015

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Dated this the 29th day of May, 2015

O R D E R

The petitioner herein is accused No.1 in Crime No. 81/2008 of Manjeshwar Police Station, for offences registered under Secs.324, 226, 308 read with Sec.34 of the IPC. The Police, after investigation submitted Anx.1 final report/charge sheet in the above said crime, which led to the pendency of C.P.No.103/2008 on the file of the Judicial First Class Magistrate's Court, Kasargod. The gist of the prosecution case is that on 8.3.2008 at about 6.30 p.m. the accused persons on account of previous enmity towards the defacto complainants (contesting respondents 3 and 4) came on a motor cycle belonging to the petitioner herein (A-1) and beat up the defacto complainants on their head and hand with a cricket bat causing simple and grievous injuries. The petitioner did not appear before the court below during the trial and the case against him was accordingly split up. The other accused faced trial, which led to Anx.II judgment dated 22.6.2012 in Sessions Case, S.C.No.

No.352/2008 of the Additional Sessions Court (Ad Hoc-I), Kasargod, whereby the co-accused were acquitted of the offences. It is also stated that now respondents 3 and 4, who are the defacto complainants, have settled the matter with the petitioner in the presence of respectable mediators as borne out by Anxs.III and IV affidavits sworn to by them, whereby the said contesting respondents 3 and 4 stated that they have no objection whatsoever for the quashment of the impugned criminal proceedings pending against the petitioner. The case against the petitioner has been refiled and numbered as S.C.No.674/2014 on the file of the Sessions Court concerned, Kasargod. It is in the light of the aforementioned acquittal of co-accused and the settlement with the defacto complainants, that the petitioner has filed the instant Crl.M.C. for quashment of the impugned criminal proceedings against him.

2. Heard Sri.T.G.Rajendran, learned counsel for the petitioner, Sri.Cibi Thomas, learned counsel appearing for contesting respondents 3 and 4 and the learned Public Prosecutor appearing for the official respondents.

3. It can be seen from Anx. II judgment of the court below

that the PW-1, who is the eye witness to the incident, clearly deposed that he did not witness the incident, in which, the CWs 1 and 2 sustained injuries and so he was declared hostile. PWs 2 to 5, who are the other occurrence witnesses, were examined on the side of the prosecution. All of them deposed that they did not see the incident, in which, CWs 1 and 2 sustained injuries. CWs 1 and 2 were not available for trial as they were reportedly working abroad. All the other prosecution witnesses were official witnesses.

4. On a careful appraisal of the entire materials on record and the evidence adduced in this case, the Sessions Judge came to the considered conclusion that there is no material evidence to connect the co-accused with the criminal charges in this case. Accordingly, the Sessions Court acquitted the said co-accused as per Anx.II judgment. Now the defacto complainants (contesting respondents 3 and 4) have also stated as per Anxs.III and IV affidavits that they have no objection in the prayer for the premature termination of the impugned criminal proceedings pending against the petitioner. Evaluating this case in the light of the acquittal of the co-accused and the stand taken by contesting respondents 3 and 4, it can be seen that no fruitful purpose would

be subserved by continuing the impugned criminal proceedings, it is ordered in the interest of justice that the impugned Anx.I final report/charge sheet filed in the impugned Crime No.81/2008 of Manjeshwar Police Station, which has led to the pendency of S.C.No.674/2014 on the file of the Sessions Court concerned, Kasargod, and all further proceedings arising therefrom pending against the petitioner stand quashed.

The Crl.M.C. is disposed of as above.

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Sd/-
ALEXANDER THOMAS, JUDGE

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P.S. to Judge