

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

CrI.MC.No. 2090 of 2014 ()

**IN CC 707/2010 of J.M.F.C.-I,HOSDRUG
CRIME NO. 774/2009 OF HOSDURG POLICE STATION , KASARGOD**

PETITIONER(S)/2ND ACCUSED:

**NAJEEB S.K. @ NAJEEMUDHEEN, AGED 28 YEARS
S/O.FAKRUDDIN, RESIDING AT PADANNAKKAD
P.O.PADANNAKKAD, KANHANGAD, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.HASHIR
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT(S)/STATE:

**1. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM REPRESENTING STATION HOUSE OFFICER
HOSDURG POLICE STATION.**

**2. ASHKAR P.C., AGED 30 YEARS
S/O.CMC MUHAMMED, RESIDING AT MUNEER MANZIL, KAYYAR
PADANNAKKAD P.O., KANHANGAD VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT.**

**R2 BY ADV. SRI.A.L.GEORGE
R1 BY ADV. PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26-02-2015,
ALONG WITH CRMC. 2097/2014, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

APPENDIX

PETITIONERS ANNEXURES:

- A1: TRUE COPY OF THE FIR IN CRIME NO.774 OF 2009 OF HOSDURG POLICE STATION**
- A2: TRUE COPY OF THE CONSENT LETTER OF THE 2ND RESPONDENT DATED 28.3.2014**
- A3: TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 3.4.2014**

RESPONDENTS ANNEXURES: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 2090 of 2014

Dated this the 26th day of February, 2015.

O R D E R

The petitioner herein is the original second accused in C.C No.707 of 2010 of the Judicial First Class Magistrate Court-I, Hosdurg. The accused Nos. 1 and 5 faced prosecution before the learned Magistrate in C.C No.707 of 2010, and obtained a judgment of acquittal on 18.8.2014, when all the material witnesses examined by the prosecution turned hostile in view of an amicable settlement made by the parties out of court. The case against the others including the petitioner herein was split up and refiled in the trial court. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 143, 147, 148, 448, 427 r/w 149 of IPC on the complaint of one Ashkar who is the second 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. 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 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.

In the result, this petition is allowed. The prosecution against the petitioner herein in Crime No.774 of 2009 of the Hosdurg Police Station, and as the original second accused in C.C No.707 of 2010 of the Judicial First Class Magistrate Court -I , Hosdurg will stand quashed under Section 482 of the

Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

P.UBAID,
JUDGE

sab