

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

Crl.MC.No. 2097 of 2014 ()

**IN CC 177/2012 of J.M.F.C.-I, HOSDRUG
CRIME NO. 26/2012 OF HOSDURG POLICE STATION , KASARGOD**

PETITIONER(S)/IST 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. RAFEEQUE, AGED 29 YEARS
S/O.MUHAMMED, RESIDING AT RAFEEQUE MANZIL
NHANIKKAKADU, P.O.OZHINJAVALLAPPU, KANHANGAD VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT -671 121**

**R2 BY ADV. SRI.A.L.GEORGE
R. BY ADV. GOVERNMENT PLEADER
R BY PUBLIC PROSECUTOR**

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

Crl.MC.No. 2097 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE-A1: TRUE COPY OF THE FIR IN CRIME NO.26/2012 OF HOSDURG
POLICE STATION.**

**ANNEXURE-A2: TRUE COPY OF THE CONSENT LETTER OF THE 2ND
RESPONDENT DATED 27.3.2014**

**ANNEXURE-A3: TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND
RESPONDENT DATED 27.3.2014**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 2097 of 2014

Dated this the 26th day of February, 2015.

O R D E R

The petitioner herein is the original first accused in Crime No.26 of 2012 of the Hosdurg Police Station. The case against him is now pending as committal proceedings before the learned Magistrate as C.P No.177 of 2012. He seeks orders quashing the prosecution on the ground of settlement between him and the de facto complainant. The offences involved in the crime are under Sections 143, 147, 148, 341, 323, 324, 326 and 308 r/w 34 of IPC. The case against the original accused Nos. 2 and 5 in the crime stands already quashed by this court as per the order dated 19.12.2014 in Crl.M.C 2153 of 2014 on the ground of settlement of the whole dispute between the accused and the de facto complainant. The de facto complainant Rafeeqe is the second respondent in this proceeding brought under Section 482 Cr.P.C. He has filed affidavit to the effect that he has settled the dispute with the accused, and he has no grievance or complaint now. On a perusal of the prosecution records I find that this is of course a case of

grievous hurt coming under Section 326 IPC, but I do not find definite materials for prosecution under Section 308 IPC. There is reason to believe that such a section was incorporated on the basis of some hypothetical statement. Anyway, the whole dispute stands settled between the parties. 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, if the parties have come to terms out of court, or if continuance of prosecution will not serve any purpose. Here it is definite that continuance of prosecution will not serve any purpose, when the whole dispute stands amicably settled out of court, and the parties are now on quite cordial terms.

In the result, the prosecution against the petitioner herein in C.P 177 of 2012 of the Judicial First Class Magistrate Court-I, Hosdurg will stand quashed under Section 482 Cr.P.C.

P.UBAID,
JUDGE