

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

CrI.MC.No. 3291 of 2015 ()

**CC 990/2012 of JUDICIAL FIRST CLASS MAGISTRATE COURT, ALATHUR
CRIME NO. 152/2012 OF MANGALAM DAM POLICE STATION, PALAKKAD**

PETITIONERS/ACCUSED NOS. 1 TO 3 :

- 1. MOOSAKKUTTY, AGED 41 YEARS,
S/O ASSANAR, POOTHMKODFE VEEDU,
OLIMKADAVU P.O., KUNNATHUGATE, PALAKKAD**
- 2. SIDDIQUE, AGED 47 YEARS,
S/O ASSANAR, POOTHMKODFE VEEDU,
OLIMKADAVU P.O., KUNNATHUGATE, PALAKKAD**
- 3. JOSH Y, AGED 43 YEARS,
S/O THANKAPPA, PUNNAKKALA HOUSE,
OLIMKADAVU P.O., KUNNATHUGATE, PALAKKAD**

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENTS/DEFACTO COMPLAINANT CW2 AND STATE :

- 1. TOMY THOMAS @ THOMACHAN, AGED 53 YEARS,
S/O THOMAS, CHERUR VEDDU, OLIMKADAVU PO
KUNNATHUGATE, PALAKKAD 678 501**
- 2. PIOUS, AGED 51 YEARS,
S/O CHACKO, KUNNATHU VEEDU, OLIMKADAVU PO
KUNNATHUGATE, PALAKKAD 678 501**
- 3. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA ERNAKULAM 682 031**

R1&R2 BY ADV. SRI.P.M.RAFIQ

R3 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-06-2015 ALONG WITH CR.MC 3295/2015, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:**

bp

Crl.MC.No. 3291 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: FREE COPY OF THE FINAL REPORT IN CRIME NO.153/2012 OF
MANGALAMDAM POLICE STATION IN C.C.NO.927/12 ON THE FILE OF
THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE, ALATHUR.**

ANNEXURE B: THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT

ANNEXURE C: THE SWORN BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

Crl.M.C.Nos.3291 & 3295 Of 2015

Dated this the 4th day of June, 2015.

ORDER

The petitioners in Crl.M.C.No.3291/2015 are accused Nos.1 to 3 in C.C.No.990 on the file of the Judicial First Class Magistrate Court, Alathur which arose out of Crime No.152/2012 of Mangalam Dam Police Station registered for offences under Secs.341 & 324 r/w 34 IPC. The police after investigation submitted the impugned Annexure-A Final Report/Charge Sheet in the present Crime. The prosecution allegation is that the accused with a common object attacked the defacto complainant (R1) and another (R2) due to their animosity for interfering in the family dispute of the accused and thus committed the above said offence.

2. The petitioners in Crl.M.C.No.3295/2015 are accused Nos.1 to 3 in C.C.No.927/2012 on the file of the Judicial First Class Magistrate Court, Alathur which arose out of Crime No.153/2012 of Mangalam Dam Police Station registered for offences under Secs.323 & 324 r/w 34 IPC. It may be noted that the petitioners 1 & 2 in Crl.M.C.No.3295/2015 (who are accused Nos.1 & 2 in Crime

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No.153/2012) are the defacto complainants in Crime No.152/2012 in which the petitioners in Crl.M.c.No.3291/2015 are arrayed as accused. Petitioners 1 to 3 in Crl.M.C.No.3291/2015 are the respondents 1 & 2 in Crl.M.C.No.3295/2015 and petitioners 1 & 2 in Crl.M.C.No.3295/2015 are contesting respondents 1 & 2 in Crl.M.C.No.3291/2015.

3. Now it is submitted that the entire issues between the petitioners and respondents in both Crl.M.Cs have been amicably settled and the defacto complainants in both cases have sworn to affidavits stating that they have no objection in the quashment of the impugned criminal proceedings in both cases. It is in the light of these aspects, that the prayer for quashment of the impugned criminal proceedings has been made in these Crl.M.Cs.

4. After having heard all the parties concerned and on a perusal of the averments in the petitions as well as a close scrutiny of the affidavits sworn to by the contesting respondents in both cases and after hearing their learned counsel concerned as well as the learned Public Prosecutor, this Court is of the considered opinion that the prayer for quashment could be considered in the light of the legal principles well settled by the Apex Court in this regard.

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5. Accordingly, it is ordered in Crl.M.C.No.3291/2015 that the impugned Annexure-A Final Report/Charge Sheet filed in Crime No.152/2012 of Mangalamdam Police Station which has led to the pendency of C.C.No.990/2012 on the file of the Judicial First Class Magistrate Court, Alathur and all further proceedings arising therefrom pending against the petitioners therein stand quashed under Sec. 482 of the Code of Criminal Procedure. It is also ordered in Crl.M.C.No.3295/2015 that the impugned Annexure-A Final Report/Charge Sheet filed in Crime No.153/2012 of Mangalamdam Police Station which has led to the pendency of C.C.No.927/2012 on the file of the Judicial First Class Magistrate Court, Alathur and all further proceedings arising therefrom pending against the petitioners therein stand quashed under Sec. 482 of the Code of Criminal Procedure

With these observations and directions, both the Crl.M.Cs stand finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-