

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

Crl.MC.No. 3596 of 2015

CRIME NO. 899/2015 OF PERUMBAVOOR POLICE STATION , ERNAKULAM

PETITIONERS/ACCUSED NOS.1 TO 3:

1. UVAISE, AGED 30 YEARS,
S/O.ABDUL KHADER, THUKALIL HOUSE, MUDICKAL.P.O,
MARAMPALLY VILLAGE, ERNAKULAM DISTRICT.
2. ANEESH, AGED 26 YEARS,
MANKUDY HOUSE, MOULOODUPURA, MARAMPALLI,
ERNAKULAM DISTRICT.
3. ANAS, AGED 26 YEARS,
PLACKAL HOUSE, VANCHINADU, MARAMPALLI,
ERNAKULAM DISTRICT.

BY ADV. SRI.N.P.PRAJEESH

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-82031.
2. RIJU, AGED 34 YEARS,
S/O.M.K.HAMSA, MOOKKADA HOUSE, MUDICKAL.P.O,
VANCHINADU, PERUMBAVOOR, ERNAKULAM DISTRICT-682054.

R1 BY PUBLIC PROSECUTOR SMT.S.HYMA
R2 BY ADV. SRI.TONY AUGUSTINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PJ

Crl.MC.No. 3596 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE-A PHOTOCOPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.899/2015 OF PERUMBAVOOR POLICE STATION**

**ANNEXURE-B THE ORIGINAL OF THE AFFIDAVIT SWORN TO BY THE RESPONDENT
NO.2 BEFORE HIS ADVOCATE AT PERUMBAVOOR,DTD.12.6.2015.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

Crl.M.C.No.3596 Of 2015

Dated this the 23rd day of June, 2015.

ORDER

The petitioners are the three accused in impugned Anx-A FIR in Crime No.899/2015 of Perumbavoor Police Station, registered for offences alleged under Secs.436 r/w 34 IPC. The case was registered on the allegation that the accused persons trespassed into the house of the 2nd respondent (defacto complainant) and committed damage of the wiring system in his house. Now, it is submitted that the matter has been settled between the petitioners and the 2nd respondent (defacto complainant) and that the 2nd respondent has sworn to Anx-B affidavit stating that he has given pardon to all the accused in the case considering their age and change in their character and that he has no objection in quashing the impugned criminal proceedings pending against the petitioners. It is in the light of these aspects that the petitioners have filed this Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

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2. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. State of Punjab and anr.* reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

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3. Accordingly, it is ordered in the interest of justice that the impugned Anx-A FIR in Crime No.899/2015 of Perumbavoor Police Station and all further proceedings arising therefrom pending against the petitioners herein stand quashed under Sec.482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-