

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

Crl.MC.No. 3646 of 2015

S.C. NO.39/2013 OF THE SESSIONS COURT, KASARAGOD

CRIME NO. 75/2012 OF HOSDURG POLICE STATION, KASARGOD

PETITIONERS/ACCUSED 2 TO 6 & 8:

1. NISHANTH.K, AGED 29 YEARS,
S/O.KANANKUNHI, R/A.NEENA NIVAS, GARDEN VALAPPU,
AVIKKARA, BALLA VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT
2. MANI.K, AGED 29 YEARS,
S/O.NARAYANAN, R/A.GARDEN VALAPPU, AVIKKARA,
BALLA VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT
3. DILEEP K.P, AGED 25 YEARS,
S/O.SASI, R/A.GARDEN VALAPPU, AVIKKARA
BALLA VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT
4. PRIYESH G.M, AGED 23 YEARS,
S/O.MANI, R/A.GARDEN VALAPPU, AVIKKARA,
BALLA VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT
5. JYOTHISH, AGED 21 YEARS,
S/O.CHANDRAN, R/A.KANDATHIL HOUSE, GARDEN VALAPPU,
AVIKKARA, BALLA VILLAGE, HOSDURG TALUK
KASARAOG DISTRICT
6. VARUN RAJ.M, AGED 21 YEARS,
S/O.RAJAN, R/A.VALSALA NIVAS, AVIKKARA,
BALLA VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT

BY ADV. SRI.T.MADHU

RESPONDENTS/STATE:

1. THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER
HOSDURG POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682031

2. SUKESH KUMAR, AGED 24 YEARS,
S/O.SUKUMARAN, R/A.MURUKALAYAM
NEAR SUBRAHMANYASWAMI KOVIL, AVIKKARA,
BALLA VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT - 671 531

3. SILA, AGED 42 YEARS,
W/O.SUKUMARAN, R/A.MURUKALAYAM,
NEAR SUBRAHMANYASWAMI KOVIL, AVIKKARA,
BALLA VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT - 671 531

R2 &3 BY ADV. SMT.G.SANGEETHA
R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 3646 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1:- COPY OF THE FIR IN CRIME NO 75/2012 OF HOSDURG
POLICE STATION

ANNEXURE A2:- COPY OF THE FINAL REPORT IN CRIME NO 75/2012 OF
HOSDURG POLICE STATION

ANNEXURE A3:-THE AFFIDAVIT DTD 11/6/2015 SWORN IN BY THE 2ND
RESPONDENT

ANNEXURE A4:-THE AFFIDAVIT DTD 11/6/2015 SWORN IN BY THE 3RD
RESPONDENT

ANNEXURE A5:- COPY OF THE MEMO OF EVIDENCE IN CRIME NO 75/2012 OF
HOSDURG POLICE STATION

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.3646 of 2015

Dated this the 21st day of July, 2015

O R D E R

The petitioners herein are the six accused in S.C No.39/2013 of the Court of Session, Kasaragod. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 143, 147, 148, 448, 323, 324, 427 and 506(ii) r/w 149 of the Indian Penal Code, and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC/ST Act') on the complaint of one Sukesh Kumar who is the 2nd 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.

2. The other victim of offence in this case is the 3rd respondent in this proceeding. She has also filed affidavit to the effect that she has settled the whole dispute with the accused, and she has no grievance or complaint now.

3. On a perusal of the materials I find that the complaint in this case does not contain any allegation attracting the offence under Section 3(1)(x) of the SC/ST Act. The essential ingredients of the offence are that the offence must have been committed within the public view, and with the object of abusing or humiliating a member of Scheduled Caste or Tribe on the ground that he or she belongs to such a caste. The final report submitted by the police under Section 3(1)(x) of the SC/ST Act besides the other IPC Sections. When the complaint does not contain any such allegation, it is not known how the police could submit the final report under the SC/ST Act also. Anyway, the parties have come to terms, and they are now on quite cordial terms. Continuance of prosecution under such circumstance will cause harm and hardship to both the parties.

4. 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 prosecution 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.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C No.39/2013 of the Court of Session, Kasaragod will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

**Sd/-
P.UBAID
JUDGE**

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