

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

Crl.MC.No. 3769 of 2015 ()

CC.NO. 700/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -I, NEDUMANGAD

PETITIONER(S)/2ND AND 3RD ACCUSED:

- 1. SANDEEP, S/O.SASI,AGED 26 YEARS,
KAVARAVILA VEETIL, NEDUMANGADU TALUK,
NEDUMANGADU VILLAGE, THIRUVANANTHAPURAM DISTRICT.**
- 2. SANTHOSH,S/O.SASI, AGED 23 YEARS,
KAVARAVILA VEETIL, NEDUMANGADU TALUK,
NEDUMANGADU VILLAGE, THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.M.H.HANIL KUMAR
SRI.S.RAMACHANDRAN NAIR**

RESPONDENT/RESPONDENT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
(CRIME NO.220 OF 2009 OF VENJARAMOODU POLICE STATION,
THIRUVANANTHAPURAM DISTRICT).**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-06-2015,ALONG WITH CRL.M.C.NO.3770 OF 2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 3769 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX A1- TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE 1ST
RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRETE -1,
NEDUMANGAD**
- ANNEX A2- TRUE COPY OF THE COMPROMISE DECREE AND JUDGMENT DATED
31.10.2014 PASSED BY THE FAMILY COURT, NEDUMANGAD IN OP.
NO.455 OF 2009**
- ANNEX A3- TRUE COPY OF THE DEATH CERTIFICATE ISSUED ON 20.1.2015 BY
THE LOCAL REGISTRAR OF BIRTH AND DEATHS, NELLAND GRAMA
PANCHAYAT**
- ANNEX A4- TRUE COPY OF THE DEATH CERTIFICATE ISSUED ON 25.3.2015 BY
THE LOCAL REGISTRAR OF BIRTH AND DEATHS, NELLANAD GRAMA
PANCHAYAT.**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.Nos.3769 & 3770 of 2015

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Dated this the 29th day of July, 2015

ORDER

Crl.M.C.No.3769/2015:

The petitioners herein are the 2nd and 3rd accused in the impugned Crime No.220/2009 of Venjaramoodu Police Station, registered for offences under Sec. 188, 294(b), 324, 452, 506(1) read with Sec.34 of the I.P.C. The Police after investigation submitted the impugned Anx.A-1 final report/charge sheet in the impugned crime, which led to the institution of Calendar Case, C.C.No.700/2009 on the file of the Judicial First Class Magistrate's Court-I, Nedumangad. The defacto complainant was the petitioners' deceased grand father. The 1st accused is the son in law of the defacto complainant and the father of the petitioners herein (A-2 and A-3). The gist of the prosecution case is that the 1st accused had demanded ten cents of property, wherein the defacto complainant and his wife were residing and on meeting with refusal of this demand, due to such enmity, the accused persons had

assaulted the defacto complainant on 16.11.2008 after trespassing into the residential property of the defacto complainant and his wife, etc. It is stated that the root cause of the crime was the differences of opinion in the family property division between the maternal grand parents and the parents of the petitioners. That later the entire matter has been amicably settled in the civil proceedings as evidenced by Anx.A-2 dated 31.10.2014 compromise judgment and decree passed by the Family Court, Nedumangad in O.P.No.455/2009. In Anx.A-2 the maternal grand parents of the petitioners, who were the injured and the defacto complainant are the petitioners therein and the father (A-1) and mother of the petitioners (A-2 & A-3) are the respondents therein. In Anx.A-2 the compromise settlement application was allowed and the R-2 therein [father of the petitioners (A-2 and A-3)] was deleted from the party array and the compromise was recorded and the O.P. was thus disposed of. As per clause No.(4) of the settlement attached along with Anx.A-2, it was also agreed for the lawful termination of the criminal proceedings in the presently impugned C.C.No. 700/2009 and another case, C.C.No.156/2011 pending before the Judicial First Class Magistrate's Court-I, Nadumangad. As per the decree in

Anx. A-2 (given on page 30 of the paper book), the matter was ordered to be settled and the Original Petition was disposed of recording the compromise. Later the maternal grand mother of the petitioners (injured in the impugned crime) died on 26.11.2014 as evidenced by Anx.A-3 death certificate. Subsequently the maternal grand father (defacto complainant in the impugned crime) had also died on 20.2.2015 as evidenced by Anx. A-4 death certificate. It is pointed out that the 1st accused (father of the petitioners) is not available. It is prayed that since it is specifically recorded in Anx.A-2 decree about the terms and conditions of the compromise petition, not only the settlement of the pending civil disputes between the parties, but also the consequential impugned criminal proceedings that arose out of such civil disputes, the impugned criminal proceedings referred to therein, which is the instant in C.C.No.700/2009 and all further proceedings arising therefrom are liable to be quashed in the light of the settlement. It is pointed out that the defacto complainant and the injured who are the maternal grand parents of the petitioners, but since the terms and conditions of the settlement form part of Anx. A-2 decree, the impugned criminal proceedings may be quashed as otherwise it will result in

mere wastage of time of the precious resources of the State and that the proceedings in respect of all the accused may be quashed.

2. Heard Sri.Hanil Kumar, learned counsel appearing for the petitioners and the learned Public Prosecutor appearing for the respondent State of Kerala.

3. Though the injured and the defacto complainant who are the maternal grand parents of the petitioners are now no more, it is clearly recorded in Anx. A-2 decree about the settlement that the present impugned criminal proceedings have been agreed to be lawfully terminated. The defacto complainant and her husband are now no more and there is no point in continuing the proceedings as the matter arose out of family disputes and resultant criminal proceedings. Due to the death of the defacto complainant and the injured, there is no-one now alive to give direct evidence about the impugned incidents and so the proceedings against all the accused can be quashed. In the light of the legal position laid down by the Apex Court and this Court in a series of cases as in *Gian Singh v. State of Punjab and Anr.* reported in (2013) 1 SCC (Cri.) 160 = (2012) 10 SCC 303 it is ordered in the interest of justice that the impugned Anx.A-1 final report/charge sheet filed in Crime No.220/

2009 of Venjaramoodu Police Station, which has led to the institution of C.C.No.700/2009 on the file of the Judicial First Class Magistrate's Court-I, Nedumangadu, and all further proceedings arising therefrom pending against all the accused persons stand quashed.

Crl.M.C.No. 3769/2015 stands finally disposed of as above.

Crl.M.C.No. 3770/2015:

4. This Criminal Miscellaneous Case is also connected with Crl.M.C.No.3769/2015 disposed of earlier. The facts are almost similar. The father and mother of the petitioners in Crl.M.C.No. 3769/2014 are the accused in the present impugned Crime No. 375 /2010 of Venjaramoodu Police Station, registered for offences under Sec.188, 194(b), 324, 452, 506(11) read with Sec.34 of the I.P.C. The matter arose out of some disputes between the parents of accused No.2 herein on the one hand and accused No.2 and her husband (A-1 in the crime) on the other hand. The Police after investigation submitted the impugned Anx.A-1 final report/charge sheet in the impugned crime, which led to the pendency of C.C.No. 156/2011 on the file of the Judicial First Class Magistrate's Court-I,

Nedumangadu. The gist of the prosecution case is that the petitioner (A-1) and her husband (A-2) had trespassed into the residential building of the defacto complainant (the mother of the petitioner herein) and tried to evict her from the house etc. and the incidents in the crime are alleged to have occurred in this background. The injured is said to be the father of the petitioner. Here also there were connected civil disputes between these parties and O.P.No.455/20009 before the Family Court, Nedumangadu was ordered to be decreed in terms of the settlement arrived at between the parties, which has already been referred to in Crl.M.C.No. 3769/2015. One of the specific clauses in settlement Anx. A-2 viz., clause (4) thereof (see page 24 of the paper book) the defacto complainant and the injured, who are the mother and father of the petitioner herein) have agreed for lawful termination of the impugned criminal proceedings in C.C.No. 156/2011 on the file of the Judicial First Class Magistrate's Court-I, Nedumangadu. The defacto complainant and the injured have subsequently died as evident from Anxs.A-3 and A-4 death certificates. In the light of the view already taken by this Court in Crl.M.C.No.3769/2015, the impugned proceedings to the extent it affect both the accused

therein could be quashed in the light of the aforestated settlement, even though Accused No.1 is now not available as the defacto complainant and the injured are no more and they have earlier agreed as per Anx.A-2 decree of settlement for lawful termination of all the pending matters, including the present impugned criminal proceedings in C.C.No.156/.2011. Accordingly, it is ordered in the interest of justice that Anx.A-1 final report/charge sheet filed in Crime No.375/2010 of Venjaramoodu Police Station, which has led to the pendency of C.C.No.156/2011 on the file of the Judicial First Class Magistrate's Court-I, Nedumangadu and all further proceedings arising therefrom pending against both the accused persons are quashed.

Crl.M.C.No.3770/2015 stands finally disposed of as above.

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge