

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

Crl.MC.No. 3845 of 2015

CRIME NO. 336/2014 OF HEMAMBIKA NAGAR POLICE STATION, PALAKKAD DISTRICT.
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PETITIONER(S)/ACCUSED:

1. MANU, S/O.MURUKAN, AGED 24 YEARS,
KUNNATH HOUSE, SASTH COLONY,
MANTHAKKAD(POST), MALAMPUZHA,
PALAKKAD DISTRICT.
2. SUMESH, S/O.ANDAVAN, AGED 26 YEARS,
THOTTAPPURA HOUSE, AKATHETHARA (POST),
PALAKKAD DISTRICT.
3. MUKESH, S/O.RAJAN, AGED 23 YEARS,
THOTTAPPURA HOUSE, AKATHETHARA (POST),
PALAKKAD DISTRICT.

BY ADV. SRI.K.ANAND

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.682 031.
2. VIMOD, S/O.MANI, AGED 26 YEARS,
LAKSHM VEED COLONY, CHERAD,
MALAMPUZHA, PALAKKAD DISTRICT - 678 005.
3. LINESH, S/O.RAMACHANDRAN,
AGED 24 YEARS, PANGHICHAMPURA HOUSE,
KADUKKAMKUNNU(PO), MALAMPUZHA,
PALAKKAD - 678 005.

4. RAHUL,S/O.RADHAKRISHNAN,
AGED 23 YEARS, MYNATTUPURA HOUSE,
KADUKKAMKUNNU(POST), MALAMPUZHA,
PALAKKAD DISTRICT - 678 005.

*ADDL. R5 & R6 IMPEADED

5. JINU, S/O.RAGHAVAN, AGED 22 YEARS,
KANJIRAKADAVU, MALAMPUZHA, PALAKKAD.
6. MANOJ, S/O.VELUSWAMI, AGED 19 YEARS,
SASTHA COLONY, MANTHAKKADU, MALAMPUZHA.

ADDL.R5 & R6 ARE IMPEADED AS PER ORDER DATED 24.7.2015
IN CRL.M.A.7046/2015 IN CRL.M.C.3845/2015.

R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN
R2 TO R4 BY ADV. SRI.N.RAJESH (PALAKKAD)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-07-2015 ALONG WITH CRMC.3848/2015, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A- CERTIFIED COPY OF THE FIR IN CRIME 336/2014 OF
HEMAMBIKA NAGAR POLICE STATION DATED 11.6.14.**
- ANNEXURE B- CERTIFIED COPY OF THE FINAL REPORT IN CRIME 336/2014 OF
HEMAMBIKA NAGAR POLICE STATION DATED 7.3.15.**
- ANNEXURE C- AFFIDAVIT FILED BY THE 2 TO 5 RESPONDENTS
DATED 08.06.2015.**
- ANNEXURE D- TRUE COPY OF AFFIDAVIT OF VIMOD DATED 29.06.2015.**
- ANNEXURE E- TRUE COPY OF AFFIDAVIT OF LINESH DATED 29.06.2015.**
- ANNEXURE F- TRUE COPY OF AFFIDAVIT OF RAHUL DATED 29.06.2015.**
- ANNEXURE G- TRUE COPY OF AFFIDAVIT OF JINU DATED 29.06.2015.**
- ANNEXURE H- TRUE COPY OF AFFIDAVIT OF MANOJ DATED 28.06.2015.**

RESPONDENT(S)' ANNEXURES:

- ANNEXURE R2(A) : A TRUE COPY OF THE ACCIDENT REGISTER CUM WOUND
CERTIFICATE.**

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

Crl.M.C.Nos.3845 & 3848 Of 2015

Dated this the 29th day of July, 2015.

ORDER

The prayers made in these two Crl.M.Cs filed under Sec.482 of the Cr.PC invoking the inherent powers conferred on this Court as per that provision are to quash respective impugned criminal proceedings in these cases which essentially arise out of two crimes which are said to be case and counter case and the prayer for quashment in both these cases is made on the basis of settlement arrived at between the accused persons and defacto complainant. Crl.M.C.No.3845/2015 arises out of Anx-A Crime No.336/2014 of Hemambika Nagar Police Station, Palakkad in which there are three accused, who are the petitioners in the said Crl.M.C and the contesting respondents 2 to 6 therein are the defacto complainant, injured and the charge witnesses respectively in relation to that crime. Crl.M.C.No.3848/2015 arises out of counter case viz., Crime No.335/2014 of Hemambika Nagar Police Staion, Palakkad.

Crl.M.C.Nos.3845 & 3848 Of 2015

Originally, there were 7 accused in the impugned Anx-A Crime and later, after investigation, the police submitted the impugned Anx-E final report wherein there are only 4 accused, who are the 4 petitioners in Crl.M.C.No.3848/2015. The 1st petitioner (Who is accused No.1 in Crime No.336/2014) in Crl.M.C.No.3845/2015 is the contesting respondent No.2 (defacto complainant in Crime No.335/2014) in Crl.M.C.No.3848/2015. Petitioners 3 & 4 in Crl.M.C.No.3848/2015 (who are accused Nos.3 & 4 in Crime No.335/2014) are contesting respondents 2 & 3 (defacto complainants in Crime No.336/2014) in Crl.M.C.No.3845/2015. It is brought on record that the contesting respondents 2 to 6 in Crl.M.C.No.3845/2015 has sworn to separate affidavits produced as Anxs-D to H in that Crl.M.C whereby they have stated that the entire disputes against the defacto complainant, injured and the charge witnesses, etc, have been fully settled and the contesting respondents have no objection in quashing the pending criminal proceedings against the petitioners in Crl.M.C.No.3845/2015. So also the contesting respondents 2 & 3 in Crl.M.C.No.3848/2015

Crl.M.C.Nos.3845 & 3848 Of 2015

have sworn to separate affidavits as Anxs-C & D therein stating the same aspects regarding settlement and also stated that they have no objection in quashing the impugned criminal proceedings. In Crl.M.C.No.3845/2015, the police after investigation has submitted impugned Anx-B final report in Crime No.336/2014 and the case is now pending as C.P.No.15/2015 on the file of the Judicial First Class Magistrate Court-III, Palakkad. So also, in Crl.M.C.No.3848/2015, the police after investigation has submitted the impugned Anx-E final report in the impugned Anx-A Crime No.335/2014. It is these proceedings that are sought to be quashed on the ground of settlement.

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

Crl.M.C.Nos.3845 & 3848 Of 2015

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.

3. Accordingly, it is ordered in Crl.M.C.No.3845/2015 that the impugned Anx-B final report in Crime No.366/2014 of Hemambika Nagar Police Station, which is now pending as C.P.No.15/2015 on the file of the Judicial First Class Magistrate Court-III, Palakkad and all further proceedings arising therefrom pending against the petitioners therein stand quashed under

Crl.M.C.Nos.3845 & 3848 Of 2015

Sec.482 of the Code of Criminal Procedure. It is also ordered in Crl.M.C.No.3848/2015 that the impugned Anx-E final report in Crime No.335/2014 of Hemambika Nagar Police Station 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, these Crl.M.Cs stand finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-