

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

Crl.MC.No. 3864 of 2015 ()

**SC.NO.363/2014 OF SESSIONS COURT (MARAD CASES), KOZHIKODE
CRIME NO. 223/2013 OF VALAYAM POLICE STATION, KOZHIKODE**

PETITIONERS/ACCUSED NO. A2, A5, A7, A10, A11, A13, A14 AND A19 :

- 1. PEETTAKKANDY SAHEER, AGED 32 YEARS,
S/O. ABDULLA, PETTAKANDI, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101**
- 2. HARIS, AGED 35 YEARS
S/O. SHAIKH MASTER, PUNNCKAL, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101**
- 3. PEETTAKANDY MUHAMMED, AGED 25 YEARS
S/O. ABDULLA PEETTAKANDI, PARAKKADAVU P.O., UMMATHUR
KOZHIKODE DISTRICT - 673 101.**
- 4. PUNNAKKAL SAYIED, AGED 38 YEARS
S/O. SHAIK MASTER, PUNNAKKAL HOUSE, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.**
- 5. KOMATH MUHAMMED, AGED 35 YEARS
S/O. ABDULLAH, KOMATH HOUSE, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.**
- 6. KANIYAM KANDIYIL SAJIR, AGED 28 YEARS
KANIYAM KANDIYIL, PARAKKADAVU P.O., UMMATHUR
KOZHIKODE DISTRICT - 673 101.**
- 7. POTHUVANDIYIL RASHID, AGED 25 YEARS
S/O. POCKER, POTHUVANDIYIL HOUSE, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.**
- 8. KOYIPPALLI MUHAMMED, AGED 24 YEARS
S/O. HASSAN, KOYIPPALLIYIL HOUSE, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.**

BY ADV. SRI.M.G.SREEJITH

RESPONDENTS/STATE/DEFACT COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
VALAYAM POLICE STATION THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA - 682 031.
2. MADATHIL MAHAMOOD, AGED 53 YEARS
S/O. KUNJAMMEDH HAJI, MADATHIL HOUSE, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.
3. KOLLARATHU ARSHAD, AGED 18 YEARS
S/O. MAHAMOODH, KOLLARATHU HOUSE, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.
4. PONANDIYIL MUHAMMED RAYIS, AGED 20 YEARS
S/O. ISMAIL, PONANDIYIL VEEDU, PARAKKADAVU P.O.
UMMATHUR, KOZHIKODE DISTRICT - 673 101.

R1 BY PUBLIC PROSECUTOR SMT. S. HYMA
R2 TO R4 BY ADV. SRI.ABDUL JALEEL ONATH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-06-2015, ALONG WITH CRL.M.C. NO. 3886/2015 & CONNECTED CASES,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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...3/-

Crl.MC.No. 3864 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

ANNEXURE A1: **TRUE COPY OF CHARGE SHEET IN CRIME NO 223/2013
NOW IN THE FILE OF SESSIONS COURT (MARAD
CASES), KOZHIKODE IN S.C. NO. 363/2014.**

ANNEXURE A2(a) TO A2(c) **THE AFFIDAVIT FILED BY RESPONDENTS 2 TO 4 DATED
19/1/2015.**

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

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.Nos.3864, 3886, 3889, 3916

&

3919 of 2015

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Dated this the 26th day of June, 2015

ORDER

The petitioners in Crl.M.C.No.3864/2015 are accused Nos.2, 5, 7, 10, 11, 13, 14 & 19 in Crime No.223/2013 of Valayam Police Station, Kozhikode (cases against other accused are split up) for offences under Sections 143, 147, 148, 323, 324 & 308 r/w 149 of Indian Penal Code at the instance of the 2nd respondent, which has led to the institution of S.C.No.363/2014 on the file of Sessions Court (Marad Cases) Kozhikode. The petitioners in Crl.M.C.No.3886/2015 are accused Nos.6 and 17 in the above said crime, which has led to the institution of S.C.No.731/2014 on the file of Sessions Court (Marad Cases) Kozhikode. The petitioners in Crl.M.C.No.3889/2015 are accused Nos.1, 3, 4 and 12 in the above said crime, which has led to the institution of S.C.No.1266/2014 on the file of Sessions Court (Marad Cases) Kozhikode. The petitioners in Crl.M.C.No.3916/2015 are accused Nos.9, 16, and 18 in the above said crime, which has led to the institution of C.P.No.346/2014 on the file of the Judicial First

Class Magistrate Court, Nadapuram. The petitioner in Crl.M.C.No.3919/2015 is accused No.8 in the above said crime, which has led to the institution of C.P.No. 152/2014 on the file of the Judicial First Class Magistrate Court, Nadapuram. Out of the 21 persons included in the accused array in the original crime A-15, A-20 and A-21 are juveniles. All the other accused have approached this Court through these five Criminal Miscellaneous Cases to challenge the impugned final report/charge sheet filed in Crime No.223/2013 of Valayam Police Station, Kozhikode District, which has been given rise to different Sessions Cases due to splitting up of the cases concerned. It is stated that now the entire disputes between the petitioners and contesting respondents in these Crl.M.Cs. have been settled amicably and that affidavits of the respective parties have also been filed in these cases, wherein it is stated that they have no objection for quashment of the impugned criminal proceedings pending against their opposite parties in the aforestated crime. It is in the light of these aspects that the petitioners have preferred the instant Criminal Miscellaneous Cases with prayer to quash the impugned criminal proceedings against them.

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 continuance of 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 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. Accordingly, it is ordered in the interest of justice that:-

- (i) In Crl.M.C.No.3864/2015 the impugned Annexure-A1 Charge Sheet filed in Crime No.223/2013 of Valayam Police Station,

Kozhikode, which has led to the institution of S.C.No.363/2014 on the file of the Sessions Court (Marad Cases) Kozhikode and all further proceedings arising therefrom pending against the petitioners therein stand quashed.

- (ii) In Crl.M.C.No.3886/2015 the impugned Annexure-A1 Charge Sheet filed in Crime No.223/2013 of Valayam Police Station, Kozhikode, which has led to the institution of S.C.No.731/2014 on the file of the Sessions Court (Marad Cases) Kozhikode and all further proceedings arising therefrom pending against the petitioners therein stand quashed.
- (iii) In Crl.M.C.No.3889/2015 the impugned Annexure-A1 Charge Sheet filed in Crime No.223/2013 of Valayam Police Station, Kozhikode, which has led to the institution of S.C.No.1266/2014 on the file of the Sessions Court (Marad Cases) Kozhikode and all further proceedings arising therefrom pending against the petitioners therein stand quashed.
- (iv) In Crl.M.C.No.3916/2015 the impugned Annexure-A1 Charge Sheet filed in Crime No.223/2013 of Valayam Police Station, Kozhikode, which has led to the institution of C.P.No.346/2014 on the file of the Judicial First Class Magistrate Court, Nadapuram and all further proceedings arising therefrom pending against the petitioners therein stand quashed.
- (v) In Crl.M.C.No.3919/2015 the impugned Annexure-A1 Charge Sheet filed in Crime No.223/2013 of Valayam Police Station, Kozhikode, which has led to the institution of C.P.No.152/2014 on the file of the Judicial First Class Magistrate Court, Nadapuram and all further proceedings arising therefrom pending against the petitioner therein stand quashed.

With these observations and directions these Criminal Miscellaneous Cases stand finally disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

Crl.M.C.No.3864/2015 and conn.cases - : 5 :-