

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

Crl.MC.No. 2676 of 2014

AGAINST C.C NO.1721/2013 OF THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE COURT, THIRUVANANDAPURAM

CRIME NO. 694/2013 OF PETTA POLICE STATION, THIRUVANANDAPURAM

PETITIONER/ACCUSED:

PRATHYUSH JAYAPAL, AGED 39 YEARS,
S/O.JAYAPAL, RESIDING AT 'RANGOLI', CRA 702,
CHAYAKUDI LANE, PETTAH PO, VANCIYOOR VILLAGE,
THIRUVANANTHAPURAM

BY ADV. SRI.RAJESH P.NAIR

RESPONDENTS/STATE:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31
2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM - 695 001
3. THE SUB INSPECTOR OF POLICE,
PETTAH POLICE STATION, PETTAH,
THIRUVANANTHAPURAM DISTRICT - 695 001.
4. SUDHAKARAN, AGED 72 YEARS,
S/O.PONNAYYANN NADAR, RESIDING AT DEEPTHI, TC 31/120,
CHACKAI, PETTAH VILLAGE, CHACKAI
PETTAH P.O, THIRUVANANTHAPURAM 695 001.
5. USHA PRADEEP, AGED 48 YEARS,
D/O.K.SUSEELA, RESIDING AT TC 79/1974,
MAVILAKATHU MUDUMBIL VEEDU, KARIKKAKOM,
KADAMPALLY VILLAGE, THIRUVANANTHAPURAM 695 001.
6. BINUKUMNAR, AGED 37 YEARS,
S/O.AYYAPPAN, NOW RESIDING AT TC 52/2071,
NEMOM VILLAGE, NEMOM PO, THIRUVANANTHAURAM
EARLIER RESIDED AT SANKAR NIVAS, TC 30/1741,
CHAYAKUDI LANE, PETTAH PO, THIRUVANANTHAPURAM 695 001.

7. PARVATHY, AGED 32 YEARS,
W/O.BINUKUMAR, NOW RESIDING AT TC 52/2071,
NEMOM VILLAGE, NEMOM P.O, THIRUVANANTHAURAM
EARLIER RESIDED AT SANKAR NIVAS, TC 30/1741,
CHAYAKUDI LANE, PETTAH PO,
THIRUVANANTHAPURAM 695 001.

R4-7 BY ADV. SRI.S.MOHAMMED AL RAFI
R1 TO R3 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
19-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A COPY OF THE CERTIFICATE OF REGISTRATAION OF TRADEMARK
ISSUED BY THE REGISTRAR OF TRADEMARKS ISSUED TO THE PETITIONER

ANNEXURE-B COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE
COMMERCIAL TAX OFFICER, COMMERCIAL TAXES DEPARTMENT DATED
7/4/2012

ANNEXURE-C COPY OF THE CERTIFICATE SHOWING THE PETITIONER'S FIRM
IS REGISTERED WITH THE CENTRAL EXCISE DEPARTMENT

ANNEXURE-D COPY OF THE FIR DATED 22/5/2013 LODGED BY THE SUB
INSPECTOR OF POLICE, PETTAH POLICE STATION

ANNEXURE-E COPY OF THE DINAL REPORT DATED 20/6/2013 SUBMITTED BY
THE PETTAH POLICE BEFORE THE LEARNED ADDDITIONAL CHIEF JUDICIAL
MAGISTRATE COURT, THIRUVANANTHAPURAM

ANNEXURE-F NOTARIZED AFFIDAVIT SWORN BY THE 4TH RESPONDENT DATED
10/8/2013

ANNEXURE-G NOTARIZED AFFIDAVIT SWORN BY THE 5TH RESPONDENT DATED
10/8/2013

ANNEXURE-H NOTARIZED AFFIDAVIT SWORN BY THE 6TH RESPONDENT DATED
10/8/2013

ANNEXURE-I NOTARIZED AFFIDAVIT SWORN BY THE 7TH RESPONDENT DATED
10/8/2013

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

P.UBAID, J.

Crl.M.C No.2676 of 2014

Dated this the 19th day of February, 2015

O R D E R

The petitioner herein is the accused in C.C No.1721/2013 of the Additional Chief Judicial Magistrate Court, Thiruvananthapuram. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute. Crime in this case was registered by the police suo moto under Sections 3 and 17 of the Money Lenders Act, on the basis of seizure of some documents. The material witnesses involved in this case, who are the victims of offence, according to the police, have filed affidavit to the effect that they have settled the whole dispute with the accused, and they have no grievance or complaint now. All the witnesses cited by the prosecution (respondents 4 to 7 in this proceeding) appeared before me and explained that they had no money transaction with the petitioner, that they have only some personal dealings with him, and that they have no grievance or complaint against the petitioner.

2. 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 further 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, and I am satisfied that the parties are now on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No.1721/2013 of the Additional Chief Judicial Magistrate Court, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

ab

**P.UBAID
JUDGE**