

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. 3870 of 2015

**CC 828/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDRUG
CRIME NO. 112/2012 OF HOSDURG POLICE STATION , KASARGOD**

PETITIONER(S)/ACCUSED NOS.1-7:

1. KAMARUDHEEN.M.P, AGED 22 YEARS,
S/O.SHAMSUDHEEN, PATHIKKAL HOUSE, THEKKEPPURAM
AJANUR VILLAGE.
2. P.JASIR, AGED 24 YEARS,
S/O.KUNJABDULLA, PATTILLATH HOUSE, IQUBAL NAGAR
AJANUR VILLAGE.
3. L.AFSAL, AGED 24 YEARS,
S/O.ASSAINAR, LAITHAKKILLATH HOUSE, THEKKEPPURAM
AJANUR VILLAGE.
4. V.MUHAMMED FAHIS, AGED 21 YEARS,
S/O.SIDDIQUE, VATHUPPIL HOUSE, THEKKEPPURAM
AJANUR VILLAGE.
5. ASSARUDHEEN M.P AGED 19 YEARS,
S/O.SHAMSUDHEEN, PATHIKKAL HOUSE, THEKKEPPURAM,
AJANUR VILLAGE.
6. NISSAL @ NISAMUDHEEN, AGED 22 YEARS,
S/O.ASHRAF, THEKKEPPURAM, AJANUR VILLAGE.
7. T.M.SAMEER, AGED 30 YEARS,
S/O.KUNHAMED (LATE), RESIDING AT T.M. HOUSE
THEKKEPPURAM, AJANUR VILLAGE, HOSDURG TALUK.

BY ADV. SRI.C.K.SREEJITH

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RESPONDENT(S)/STATE, COMPLAINANT & DE-FACTO COMPLAINANTS:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 031.
 2. THE STATION HOUSE OFFICER,
HOSDURG POLICE STATION, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
 3. SREEJITH C.,
S/O.KUMARAN, RESIDING AT CHERICAL HOUSE, KIZHAKUMKARA
AJANUR VILLAGE, HOSDURG, KASARAGOD 671 531.
 4. VINEESH, AGED 22 YEARS,
S/O.VIJAYAN, RESIDING AT CHERICAL HOUSE, KIZHAKUMKARA
AJANUR VILLAGE, HOSDURG, KASARAGOD - 671531.
 5. BAIJU K., AGED 23 YEARS,
S/O.BALAN, RESIDING AT CHERICAL HOUSE, KIZHAKUMKARA
AJANUR VILLAGE, HOSDURG, KASARAGOD - 671531.
- R1 &2 BY PUBLIC PROSECUTOR SMT.S.HYMA
R3-R5 BY ADV. SRI.MURUGAN P.V.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- A1: THE TRUE COPY OF THE FIR NO.112/2012**
- A2: THE TRUE COPY OF THE STATEMENT GIVEN BY THE DE-FACTO
COMPLAINANTS**
- A3: THE TRUE COPY OF THE FINAL REPORT**
- A4: THE TRUE COPY OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT**
- A5: THE TRUE COPY OF THE AFFIDAVIT SWORN BY THE 4TH RESPONDENT**
- A6: THE TRUE COPY OF THE AFFADAVIT SWORN BY THE 5TH RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

Crl.M.C.No.3870 Of 2015

Dated this the 26th day of June, 2015.

ORDER

The petitioners are accused Nos.1 to 7 in Anx-A3 final report/charge sheet in Crime No.112/2012 of Hosdurg Police Station registered for offences alleged under Secs.143, 147, 341, 323, 153(A) r/w Sec.149 IPC, which is now pending as C.C.No.828/2014 on the file of the Judicial First Class Magistrate Court-I, Hosdurg. The prosecution allegation is that accused restrained defacto complainants (respondents 3 to 5) and assaulted them. It is submitted that the matter has been settled between the parties and that the respondent 3 to 5 (defacto complainants) have sworn to Anx-A4 to A6 affidavits wherein they have stated that they have no objection in the quashment of the impugned criminal proceedings pending against the petitioners. It is in the light of these aspects that the petitioners have filed this Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

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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 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.

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3. Accordingly, it is ordered in the interest of justice that Anx-A3 final report/charge sheet filed in Crime No.112/2012 of Hosdurg Police Station, which is now pending as C.C.No.828/2014 on the file of the Judicial First Class Magistrate Court-I, Hosdurg and all further proceedings arising therefrom pending against the petitioners herein stand quashed under Sec.482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-