

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. 3922 of 2015 ()

**CP. NO.27/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDURG.
CRIME NO. 234/2014 OF CHITTARIKKAL POLICE STATION, KASARAGOD DIST.**

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PETITIONERS/ACCUSED 1 AND 2:

1. IBRAHIMKUTTY K., AGED 54 YEARS,
S/O.LAYIN HAJI, RESIDING AT KOLAYATH HOUSE,
AARILAKANDAM, BEEMANADI VILLAGE,
VELLARIKUNDU TALUK, KASARAGOD DISTRICT.
2. NAMSHEED, AGED 23 YEARS,
S/O. IBRAHIMKUTTY, RESIDING AT KOLAYATH HOUSE,
AARILAKANDAM, BEEMANADI VILLAGE,
KASARAGOD DISTRICT.

BY ADV. SRI.T.MADHU.

RESPONDENTS/STATE:

1. THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
CHITTARIKKAL POLICE STATION, KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM -682 031.
2. AJMAL V.K., AGED 15 YEARS, S/O.HAJIRA,
RESIDING T VELIKOTH HOUSE, AARILAKANDAM,
BEEMANADI VILLAGE, VELLARIKUNDU TALUK,
KASARAGOD DISTRICT, REPRESENTED BY HIS
MOTHER AND GUARDIAN HAJIRA V.K., AGED 44 YEARS,
S/O LATE MASOOD, RESIDING AT VELIKOTH HOUSE, AARILAKANDAM,
BEEMANADI VILLAGE, KASARAGOD DISTRICT- 671 314.
3. HAJIRA V.K., AGED 44 YEARS,
S/O. LATE MASOOD, RESIDING AT VELIKOTH HOUSE,
AARILAKANDAM, BEEMANADI VILLAGE,
KASARGOD DISTRICT -671 314.

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.
R2 & R3 BY ADV. SMT.G.SANGEETHA.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-06-2015, ALONG WITH CRL.MC. NO.3929 OF 2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE A1 THE TRUE CERTI COPY OF THE FIR IN CRIME NO.234/2014
OF CHITTARIKKAL POLICE STATION.**
- ANNEXURE A2 THE TRUE CERTIFICATE OF THE FINAL REPORT
IN CRIME NO.234/2014 OF CHITTARIKKAL POLICE STATION.**
- ANNEXURE A3 THE AFFIDAVIT DATED 29/05/2015 SWORN IN BY THE
3RD RESPONDENT.**
- ANNEXURE A4 THE TRUE CERTIFIED COPY OF THE MEMO OF EVIDENCE
IN CRIME NO.234/2014 OF CHITTARIKKAL POLICE STATION.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.Nos.3922 and 3929 of 2015

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Dated this the 29th day of June, 2015

ORDER

The petitioners in Crl.M.C.No.3922/2015 are accused Nos.1 and 2 in the impugned Anx.A-2 final report/charge sheet filed in Crime No.234/2014 Chittarikkal Police Station, (who are respondents 2 and 3 in Crl.M.C.No.3929/2015) registered for offences punishable under Secs.323, 324, 341, 506(i) read with Sec.34 of the I.P.C., which has led to the institution of C.P.No. 27/2015 on the file of the Judicial First Class Magistrate's Court-II, Hosdurg. The petitioners in Crl.M.C.No.3929/2015 are accused Nos.1 to 3 in the impugned FIR in Crime No.236/2014 of Chittarikkal Police Station (who are petitioners 1 and 2 in Crl.M.C.No.3922/2015), registered for offences punishable under Secs.341, 323 read with Sec.34 of the I.P.C., which has led to the institution of C.P.No. 28/2015 on the file of the Judicial First Class Magistrate's Court-II, Hosdurg. It is submitted that the aforestated cases are case and counter case. It is stated that now the entire

disputes between the contesting parties 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 crimes. It is in the light of these aspects that the petitioners have preferred the instant Criminal Miscellaneous Cases with the 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 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.

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

- (i) The impugned Anx.A2 final report/charge sheet filed in Crime No. 234/2014 of Chittarikkal Police Station, which has led to the institution of C.P.No.27/2015 on the file of the Judicial First Class Magistrate's Court-II, Hosdurg, and all further proceedings arising therefrom pending against the petitioners herein stand quashed.
- (i) The impugned Anx.A2 final report/charge sheet filed in Crime No. 236/2014 of Chittarikkal Police Station, which has led to the institution of C.P.No.28/2015 on the file of the Judicial First Class Magistrate's Court-II, Hosdurg, and all further proceedings arising therefrom pending against the petitioners herein stand quashed.

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

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge