

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

CrI.MC.No. 2794 of 2014 ()

CRIME NO. 278/2013 OF THUMBA POLICE STATION , THIRUVANANTHAPURAM

PETITIONER(S):

- 1. SYAM XAVIER, AGED 27 YEARS
S/O ROBINSON, T.C NO.81/467
PUTHUVEL HOUSE, VALIYAVELI P.O.
THIRUVANANTHAPURAM**
- 2. SHYNE XAVIER, AGED 22 YEARS
S/O ROBINSON, T.C NO.81/467
PUTHUVEL HOUSE, VALIYAVELI P.O.
THIRUVANANTHAPURAM**
- 3. AJESH ALEX, AGED 24 YEARS
S/O ALEX, ALEENA HOUSE
KOCHUVELI
TITANIUM P.O, THIRUVANANTHAPURAM**
- 4. KOCHUKANNAN, AGED 26 YEARS
S/O MATHU, T.C NO.32/208
PUTHUVEL VEEDU, MATHAVAPURAM
TITANIUM P.O, THIRUVANANTHAPURAM**

BY ADV. SRI.BLAZE K.JOSE

RESPONDENT(S):

- 1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SUB INSPECTOR OF POLICE, THUMBA POLICE STATION
THIRUVANANTHAPURAM**
- 3. JENI, AGED 28 YEARS, S/O DHASAN, PUTHUVEL PURAIDOM
VEEDU, VELIPOZHICKARA, POUND KADAVU WARD, ATTIPRA VILLAGE
THIRUVANANTHAPURAM**

**R3 BY ADV. SRI.RAHUL SASI
R1-2. BY ADV. PUBLIC PROSECUTOR SMT. S. HYMA**

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23-01-2015, ALONG WITH CRMC. 2798/2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 2794 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE 1: A CERTIFIED COPY OF THE FIR IN CRIME NO.278/2013 OF THUMBA
POLICE STATION**

**ANNEXURE 2: A NOTARISED AFFIDAVIT SUBMITTED BY THE 3RD RESPONDENT
DATED 9/5/2014.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PATO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 2794 of 2014

Dated this the 23rd day of January, 2015.

O R D E R

Two incidents of assault, one retaliative to the other, led to the registration of two crimes by the Thumba Police in 2013. Crime No.277/2013 was registered under Sections 143, 147, 149, 452, 323, 324 and 308 IPC, on the complaint of one Shine Xavier. The petitioners in Crl.M.C 2798/2014 are the five accused in the said crime, and the third respondent in the proceeding is the first informant Shine Xavier. Crime No.278/2013 was registered under Sections 143, 147, 148, 149, 323, 324 and 308 IPC on the complaint of one Jeni. The petitioners in Crl.M.C 2794/2014 are the 4 accused in the said crime, and the complainant Jeni is the third respondent in that Crl.M.C. Now the two proceedings are sought to be quashed on the ground of amicable settlement by the parties out of court. The persons who sustained injuries have filed affidavit to the effect that the whole dispute now stands settled amicably, and they have no grievance or complaint now. I find that Section 308 IPC was in fact incorporated in the proceedings by the police on the basis of some hypothetical statements. Anyway, the whole dispute stands now settled. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non compoundable offences; be it at the crime

stage, or at the trial stage, or even at the appellate or revisional stage, the High Court can quash the prosecution, if the parties have really settled the whole dispute amicably, and continuance of prosecution will not serve any purpose. Here I find such a situation of real and genuine settlement. I find that continuance of proceedings will in fact cause harm and hardship to both the parties, and it will not serve any purpose also.

In the result, these two petitions are allowed. The FIR and further proceedings in Crime No.277/2013, and Crime No.278/2013 of the Thumba Police Station of Thiruvananthapuram District will stand quashed under Section 482 Cr.P.C.

P.UBAID,
JUDGE

sab