

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

Crl.MC.No. 4062 of 2015 ()

**CC.NO. 224/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III, KOZHIKODE
CRIME NO. 55/2012 OF KAKKUR POLICE STATION, KOZHIKODE**

PETITIONERS/ACCUSED :

- 1. BABU
S/O. BALAN, AGED 48 YEARS
MADATHIL, P.C.PALAM-POST
KAKKOOR VIA., KOZHIKODE DSITRICT.**
- 2. AJEESH LAL,
S/O. ASOKAN, AGED 25 YEARS
KOPPATTA COLONY, P.C. PALAM-POST
KAKKOOR VIA., KOZHIKODE DISTRICT.**
- 3. ANIL KUMAR,
S/O. MADAVAN, AGED 48 YEARS
THEENDA PARA, P.C. PALAM-POST
KAKKOOR VIA., KOZHIKODE DISTRICT.**

**BY ADVS.SRI.K.RAKESH ROSHAN
SMT.THUSHARA V.**

RESPONDENT/RESPONDENTS/STATE & DE-FACTO COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM
(IN CRIME NO.55/2012 OF KAKOOR POLICE STATION
NOW PENDING AS C.C.NO.224/2012 ON THE FILE OF JFCM-III
KOZHIKODE), ERNAKULAM-31.**
- 2. SUMESH,
S/O. BALAKRISHNAN NAIR,
AGED 30 YEARS, PAVATTU
PAVATTUPARACKAL, POST-P.C. PALAM,
KAKKOOR, KOZHIKODE TALUK
KOZHIKODE DISTRICT, PIN-673 001.**

**R1 BY PUBLIC PROSECUTOR SRI. R. GITHESH
R2 BY ADV. SRI.MANSOOR B.H.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4062 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

ANNEXURE 1: TRUE COPY OF THE FIR IN CRIME NO.55/2012 OF KAKKOOR
POLICE STATION NOW PENDING BEFORE THE JFCM-III,
KOZHIKODE AGAINST THE PETITIONERS AS CC NO. 224/2012.

ANNEXURE 2: TRUE COPY OF THE AFFIDAVIT SWORN BY THE RESPONDENT
NO.2.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

ALEXANDER THOMAS, J.

=====

Crl.M.C.No. 4062 of 2015

=====

Dated this the 2nd day of July, 2015

O R D E R

The petitioners herein are the accused in the impugned Anx.1 FIR in Crime No.55/2012 of Kakkoor Police Station, registered for offences punishable under Secs.341, 323, 324 read with Sec.34 of the I.P.C., which has led to the institution of Calendar Case, C.C.No. 224/2012 on the file of the Judicial First Class Magistrate's Court-III, Kozhikode. It is stated that now the entire disputes between the petitioners and the 2nd respondent defacto complainant have been settled amicably and that the 2nd respondent has sworn to Anx.2 affidavit before this Court, wherein it is stated that he has settled the entire disputes with the petitioners and that he has 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 preferred the instant Crl.M.C. 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 the impugned Anx.1 FIR in Crime No.55/2012 of Kakkoor Police Station, which has led to the institution of Calendar Case, C.C.No.224/2012 on the file

of the Judicial First Class Magistrate's Court-III, Kozhikode and all further proceedings arising therefrom pending against the petitioners herein stand quashed.

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

sd/-
ALEXANDER THOMAS, JUDGE

sdk+
///True copy///

P.S. to Judge