

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

Crl.MC.No. 4080 of 2015 ()

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C.C. NO.399/2011 (NOW LP. NO.109/2014) OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, MALAPPURAM.**

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PETITIONERS/ACCUSED:

- 1. K. KUNHAYAMU, S/O.KUNHIMUHAMMED,
AGED 50 YEARS, KAVUKUNNUMMAL VEEDU,
P.O. CHEPPOOR, MALAPPURAM DISTRICT.**
- 2. K. MUSTHAF, S/O.KUNHIMUHAMMED,
AGED 43 YEARS, KAVUKUNNUMMAL VEEDU,
P.O. CHEPPOOR, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.A.SALIL NARAYANAN.

RESPONDENTS/STATE & COMPLAINANT:

- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. ABOOBACKER, S/O.Veerankutty,
AGED 48 YEARS, PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.
R2 BY ADV. SRI.B.HARISH KUMAR.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE 1 : CERTIFIED COPY OF THE COMPLAINT IN CC.399/2011
 (NOW LP.109/14) BEFORE THE COURT OF JFCM,
 MALAPPURAM.**

ANNEXURE 2 : AFFIDAVIT SWORN TO BY THE SECOND RESPONDENT.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 4080 of 2015

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Dated this the 3rd day of July, 2015

O R D E R

It is averred that the petitioners herein are accused Nos.1 and 2 in Calendar Case, C.C.No.399/2011 on the file of the Judicial First Class Magistrate's Court, Malappuram, at the instance of the 2nd respondent, for offences under Secs.448, 323, 324, 326 read with Sec.34 of the I.P.C. It is stated that the 3rd accused in the above Calendar Case faced trial and he was acquitted by the court below concerned. It is further 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 for quashment of the impugned criminal proceedings pending against the petitioners herein. 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.I complaint, which led to the institution of C.C.No.399/2011 (now pending as L.P.No.109/2014) on the file of the Judicial First Class Magistrate's Court, Malappuram, 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.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge