

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

Crl.MC.No. 4163 of 2015 ()

SC. NO.522/2012 OF ASSISTANT SESSIONS COURT, VATAKARA.

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PETITIONERS/ACCUSED NO.1 TO 3:

- 1. KALAPAM KALEEL @ RIYAS, S/O.MAHAMOOD,
AGED 25 YEARS, VALIYAPARAMBATH HOUSE,
HAJIYAR PALLIKKUSAMEEPAM, AZHIYUR,
VATAKARA TALUK.**
- 2. NIYASAR L.V., S/O.RAFEEK,
AGED 24 YEARS, VALIYAPARAMBATH HOUSE,
THAYYIL LAKSHAM VEEDU, ANCHAMPEEDIKA BEECH,
VATAKARA TALUK.**
- 3. ANAS, S/O.ISMAIL, AGED 23 YEARS,
CHALUPARAMBATH SRAMBIKKUSAMEEPAM,
KALLAMALA AZHIYUR AMSOM, VATAKARA TALUK.**

BY ADV. SRI.ZUBAIR PULIKKOOL.

RESPONDENTS/COMPLAINANT:

- 1. MAHESH, S/O.BALAN, AGED 36 YEARS,
THADIYANTEPARAMBATH HOUSE,
AZHIYUR AMSOM, KALLAMALA,
VATAKARA TALUK.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R1 BY ADV. SMT.P.A.ANEESHA.

R2 BY PUBLIC PROSECUTOR SRI.N. SURESH.

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

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE I- CERTIFIED COPY OF FINAL REPORT IN CRIME NO.639/2011
OF CHOMBALA POLICE.**

ANNEXURE II- SWORN AFFIDAVIT OF 1ST RESPONDENT.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl. M.C No.4163 of 2015

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Dated this the 7th day of July, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.639/2011 of Chombala Police Station, registered under Sections 143, 147, 148, 323, 324, 308 r/w 149 of IPC. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant is the 1st respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint.

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 continuance of 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 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, the impugned F.I.R and further proceedings arising out of Crime No.639/2011 of Chombala Police Station, including all further proceedings arising out of S.C.No. 522/2012 on the file of Assistant Sessions Judge Vatakara pending against the petitioners herein will stand quashed under Section 482 of the Code of Criminal Procedure.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE

