

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

Crl.MC.No. 4264 of 2015 ()

CC. NO.400/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III, PALAKKAD.

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PETITIONERS/ACCUSED NOS. 1 TO 3:

1. NABEESA BEEVI, AGED 58 YEARS,
D/O.PAREETH RAWTHER, PALLIPARAMBIL, KARIKAYAM DESOM,
CHITTAR AMSOM, SEETHATHODE VILLAGE, RANNI TALUK,
PATHANAMTHITTA DISTRICT, NOW RESIDING AT NASMA HOUSE,
PIRIVUSALA, MUNDEKKODE, CHANDRANAGAR,
PALAKKAD DISTRICT, PIN-678 007.
2. K.V. SIDDIQUE, AGED 58 YEARS,
S/O.(LATE) KUNHIPPA, KARUPPAN VEEDU,
KALLADIKKODE (POST), KARIMBA, PALAKKAD DISTRICT.
3. NASEEMA SIDDIQUE, AGED 35 YEARS,
D/O.NABEESA BEEVI, PALLIPARAMBIL, KARIKAYAM DESOM,
CHITTAR AMSOM, SEETHATHODE VILLAGE, RANNI TALUK,
PATHANAMTHITTA DISTRICT, NOW RESIDING AT NASMA HOUSE,
PIRIVUSALA, MUNDEKKODE, CHANDRANAGAR,
PALAKKAD DISTRICT, PIN-678 007.

BY ADV. SRI.P.K.MOHANAN (PALAKKAD).

RESPONDENTS/STATE & LEGAL HEIRS OF THE DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HON'BLE HIGH COURT OF KERALA,
ERNAKULAM, PIN-682 031.
2. SATHI, AGED 49 YEARS,
W/O.LATE MOHAN KUMAR, 'MOHAN NIVAS',
PUTHUSSERY AMSOM, KANJIKKODE (POST),
PALAKKAD DISTRICT, PIN-678 621.
3. BINU, AGED 30 YEARS,
S/O.LATE MOHAN KUMAR, 'MOHAN NIVAS',
PUTHUSSERY AMSOM, KANJIKKODE (POST),
PALAKKAD DISTRICT, PIN-678 621.

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**4. SINI, AGED 26 YEARS,
D/O.LATE MOHAN KUMAR, 'MOHAN NIVAS',
PUTHUSSERY AMSOM, KANJIKKODE (POST),
PALAKKAD DISTRICT, PIN-678 621.**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.
R2 TO R4 BY ADV. SRI.M.DEVESH.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE 1** **COPY OF THE FIR OF PALAKKAD TOWN SOUTH POLICE STATION CRIME NO.259/2011.**
- ANNEXURE 2** **CERTIFIED COPY OF THE POLICE CHARGE SUBMITTED BY THE PALAKKAD TOWN SOUTH POLICE IN CRIME NO.259/2011 BEFORE THE JUDICIAL MAGISTRATE OF FIRST CLASS-III, PALAKKAD.**
- ANNEXURE 3** **COPY OF THE AWARD DATED 08/02/2014 PASSED BY THE LOK ADALATH ORGANIZED BY THE TALUK LEGAL SERVICE AUTHORITIES ACT 1987 IN O.S.622/2010 ON THE FILE OF ADDITIONAL SUB COURT, PALAKKAD AND LOK ADALATH CASE NO.93/2014.**
- ANNEXURE 4** **AFFIDAVIT OF THE SECOND RESPONDENT SATHI DATED 05/07/2015.**
- ANNEXURE 5** **AFFIDAVIT OF THE THIRD RESPONDENT BINU DATED 05/07/2015.**
- ANNEXURE 6** **AFFIDAVIT OF THE 4TH RESPONDENT CINI DATED 05/07/2015.**

RESPONDENT'S ANNEXURES:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 4264 of 2015

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Dated this the 10th day of July, 2015

O R D E R

The petitioners herein are accused Nos.1 to 3 in the impugned Anx.2 final report/charge sheet filed in Anx.1 FIR in Crime No. 259/2011 of Palakkad Town South Police Station, at the instance of one C.Mohankumar, who is no more, which has led to the institution of Calendar Case, C.C.No. 400/2011 on the file of the Judicial First Class Magistrate's Court-III, Palakkad. The gist of the allegation against the petitioners is that the petitioners made the defacto complainant believe that the 2nd accused has the power of attorney to sell a house and compound situated in Kodumbu village, let out the house to the defacto complainant and thereafter on 25.3.2011 trespassed into the said house and stolen some articles and amount of rupees one lakh. Even though initially case was registered for offences punishable under Secs.448 355, 294(b), 379 read with Sec.34 of the I.P.C., the Police filed final report only with respect to offences punishable under Sec. 448, 294(b) read with 34 I.P.C. It is stated that now the entire disputes between the

petitioners on the one hand and the relatives of the defacto complainant who is no more have been settled amicably and that respondents 2 to 4 have sworn to Anxs.4, 5 and 6 affidavits respectively, wherein it is stated that they have settled the entire disputes with the petitioners and that they have no objection for quashment of the impugned criminal proceedings pending against the petitioners. It is also stated that the civil disputes pending between the petitioners and the relatives of the defacto complainant have also been settled in the Lok Adalath. 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.2 final report/charge sheet filed in Anx.1 FIR in Crime No. 259/2011 of Town South Police Station, Palakkad, which has led to the pendency of Calendar Case, C.C.No.400/2011 on the file of the Judicial First Class Magistrate's Court-III, Palakkad 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

