

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

Crl.MC.No. 4282 of 2015 ()

**CRIME NO. 155/09 OF SREEKARIYAM POLICE STATION NOW PENDING AS L.P.NO.49/11
IN C.P.NO.1/11 OF JFMC-I, THIRUVANANDAPURAM**

PETITIONERS/ACCUSED NO.8:

**KIRAN @ RAM KISHORE,
S/O. KRISHAN PILLAI, AGE 22/09, AVITOM,
VINAYAKA NAGAR, KALLAMPALLY, EDAVAKODE WARD,
MAVARTHALA KONAM MURI, ULLOOR VILLAGE,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.V.S.THOSHIN**

RESPONDENTS/COMPLAINANT:

- 1. THE CIRCLE INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION, THIRUVANANTHAPURAM,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

*** Additional R2 is impleaded**

- * 2. SYAMLAL @ SHAJI, AGED 34 YEARS, S/O. PURUSHOTHAMAN,
SHEENA NIVAS, IDAVAKKODE WARD, KALLAMPALLY-PLAVILA ROAD,
ULLOOR VILLAGE, THIRUVANANTHAPURAM DISTRICT.**

R BY PUBLIC PROSECUTORADV. SRI. GITHESH R.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
24-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4282 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

ANNEXURE A : CERTIFIED COPY OF THE FINAL REPORT IN CR.NO.155/09 OF SREEKARIYAM POLICE STATION, NOW PENDING AS LP NO.49/1 IN CP NO.1/11 OF JFMC-I, THIRUVANANTHAPURAM.

ANNEXURE B : TRUE COPY OF THE ORDER DTD.21.1.2015 IN CRL.MC NO.6868/14.

ANNEXURE C : TRUE COPY OF INDIAN PASSPORT NO.3559872 ISSUED FROM PASSPORT OFFICE, THIRUVANANTHAPURAM, DTD.27.6.2005.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 4282 of 2015

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Dated this the 24th day of July, 2015

ORDER

The prayer in this Crl.M.C. filed under Sec. 482 of the Code of Criminal Procedure seeking invocation of this Court's inherent powers conferred as per that provision, is to quash the impugned criminal proceedings arising out the impugned Anx.A final report/charge sheet filed in the impugned Crime No.155/2009 of Sreekariyam Police Station, for offences registered under Secs.143, 147, 148, 149, 324, 326 & 307 of the I.P.C. and Sec.27 of the Arms Act, which is now pending as L.P.No. 49/2011 arising out C.P.No. 1/2011 on the file of the Judicial First Class Magistrate's Court-I, Thiruvananthapuram.

2. There are altogether eight accused in the impugned Anx.A final report/charge sheet and the petitioner is A-8 therein. It is pointed out that the petitioner was outside India between 1.9.2008 and 6.8.2010 and this submission is made by the petitioner on the basis of the passport entry at Anx.C. That the

petitioner is innocent and he came to know about the case only when he arrived to his house on leave. Since the petitioner was abroad, the case against him was split up and the case as against the other seven accused (A1 to A-7) was numbered as S.C.No. 395/2011 on the file of the 1st Additional Assistant Sessions Court, Thiruvananthapuram. The impugned criminal proceedings to the extent it related to accused Nos.1 to 7 were quashed by this Court as per Anx.B order dated 21.1.2015 of this Court in Crl.M.C.No. 6868/2014, on the ground of the settlement between the accused and the defacto complainant. The said Anx.B order dated 21.1.2015 in Crl.M.C.No. 6868/2014 reads as follows:

“P.UBAID, J.

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Crl.M.C No.6868 of 2014

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Dated this the 21st January, 2015

O R D E R

The petitioners herein are the seven accused in S.C No.395 of 2011 of the 1st Additional Assistant Sessions Court, Thiruvananthapuram. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 148, 149, 324, 326 and 307 of Indian Penal Code and also under Section 27 of the Arms Act on the complaint of one Syamlal, who is the 2nd 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 now.

2. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution in pending proceedings, if the

parties have really settled the whole dispute amicably out of court, and continuance of the prosecution will not serve any purpose in such a circumstance of amicable settlement. Here, I find a real and genuine case of settlement between the parties. This is not a case involving any public interest or public issue. The parties have come to terms amicably on the intervention of persons acceptable to both sides, and I am satisfied that the parties are now on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C No.395 of 2011 of the 1st Additional Assistant Sessions Court, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged."

3. After hearing both sides, this Court is the considered opinion that as the impugned criminal proceedings as against the seven out of the eight accused, have already been quashed as evident from Anx.B order, further continuation of the impugned proceedings is not proper, taking into account the facts and circumstances of this case. Accordingly, it is ordered in the light of Anx.B order dated 21.1.2015 in Crl.M.C.No.6868/2014 that the impugned Anx.A final report/charge sheet filed in Crime No.155/2009 of Sreekariyam Police Station, which is now pending as L.P.No. 49/2011 in C.P.No. 1/2011 on the file of the Judicial First Class Magistrate's Court-I, Thiruvananthapuram pending against the petitioner and all further proceedings arising therefrom pending

against the petitioner stand quashed.

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

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge