

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Crl.MC.No. 4306 of 2015 ()

CRIME NO. 900/2015 OF PERUMBAVOOR POLICE STATION, ERNAKULAM DIST.

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PETITIONERS/ACCUSED NOS.1 TO 3:

- 1. UVAISE, AGED 30 YEARS,
S/O.ABDUL KHADER, THUKALIL HOUSE,
MUDICKAL P.O., MARAMPALLY VILLAGE,
ERNAKULAM DISTRICT.**
- 2. ANEESH, AGED 26 YEARS,
MANKUDY HOUSE, MOULOODUPURA,
MARAMPALLI, ERNAKULAM DISTRICT.**
- 3. ANAS, S/O.ALIYAR, AGED 26 YEARS,
PLACKAL HOUSE, VANCHINADU,
MARAMPALLI, ERNAKULAM DISTRICT.**

BY ADV. SRI.N.P.PRAJEESH.

RESPONDENTS/STATE & AFFECTED PERSONS:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. RAFAEEK, AGED 37 YEARS,
S/O.SYED MOHAMMED, MUNDETH HOUSE,
VANCHINADU BHAGOM, MUDICKAL, MARAMPALLI VILLAGE,
PERUMBAVOOR, ERNAKULAM DISTRICT-682 534.**
- 3. SEBASTIAN, AGED 26 YEARS, S/O.JOSE,
KOZHUKKATTA HOUSE, NEAR VALLAM CHURCH,
CHELAMATTOM KARA, PERUMBAVOOR,
ERNAKULAM DISTRICT-682 534.**

**R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.
R2 & R3 BY ADV. SRI.VIVEK VENUGOPAL.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNX.A - PHOTOCOPY OF THE FIRST INFORMATION REPORT IN
CRIME NO.900/2015 OF PERUMBAVOOR POLICE STATION.**
- ANNX.B - PHOTOCOPY OF THE STATEMENT RECORDED FROM THE
2ND RESPONDENT DATED 01.03.2015 TAKEN BY THE S.I. OF
POLICE, PERUMBAVOOR.**
- ANNX.C - PHOTOCOPY OF THE STATEMENT RECORDED FROM THE
3RD RESPONDENT TAKEN BY THE S.I. OF POLICE,
PERUMBAVOOR.**
- ANNX.D - THE ORIGINAL OF THE AFFIDAVIT SWORN TO BY THE
RESPONDENT NO.2 BEFORE HIS ADVOCATE AT PERUMBAVOOR
DATED 03.07.2015.**
- ANNX.E - THE ORIGINAL OF THE AFFIDAVIT SWORN TO BY THE
RESPONDENT NO.3 BEFORE HIS ADVOCATE AT PERUMBAVOOR
DATED 03.07.2015.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

ALEXANDER THOMAS, J.

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Dated this the 13th day of July, 2015.

ORDER

The petitioners are the accused Nos.1 to 3 in Anx-A FIR in Crime No.900/2015 of Perumbavoor Police Station registered for offences alleged under Sec.379 r/w 34 of the IPC. The prosecution allegation that the accused persons committed theft of battery from the two lorries of the complainants. It is submitted that the matter has been settled between the parties and that respondents 2 & 3 (defacto complainants) have sworn to Anx-D & E affidavits wherein they have stated that they have 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 filed this Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

2. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences,

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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.

3. Accordingly, it is ordered in the interest of justice that
Anx-A FIR in Crime No.900/2015 of Perumbavoor Police Station,

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and all further proceedings arising therefrom pending against the petitioners herein stand quashed under Sec.482 of the Code of Criminal Procedure.

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

ALEXANDER THOMAS,
Judge.

bkn/-