

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Crl.MC.No. 4337 of 2015 ()

**CC 1149/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PERINTHALMANNA
CRIME NO. 154/2011 OF MANKADA POLICE STATION, MALAPPURAM**

PETITIONERS/ACCUSED 1 TO 5 :

- 1. MANSOOR, AGED 48 YEARS,
S/O.ASSAINAR, KALATHIL HOUSE, VADAKKANGARA
PALLIPADI, MALAPPURAM DISTRICT.**
- 2. ABID HUSSAIN, AGED 25 YEARS,
S/O.MUHAMMED, MELEVILAKKATHIL HOUSE,
VADAKKANGARA PALLIPADI, MALAPPURAM DISTRICT.**
- 3. MUHAMMED RAFI, AGED 32 YEARS
S/O.IBRAHIM, PADIKKAPARAMBATH HOUSE, VADAKKANGAR
PALLIPADI, MALAPPURAM DISTRICT.**
- 4. RENJITH, AGED 25 YEARS
S/O.PRAKASH BABU, MANGALASSERY HOUSE, VADAKKANGAR
VADKKANGARA PALLIPADI, MALAPPURAM DISTRICT.**
- 5. KENSUDHEEN, AGED 36 YEARS
S/O.MUHAMMEDKUTTY, CHOLEMPARA HOUSE
VADAKKANGARA PALLIPADI, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.C.ANTONY MATHEW

RESPONDENTS/STATE AND COMPLAINANT :

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. MUHAMMED MUSTHAFA, AGED 34 YEARS,
S/O.ABDUL KARIM, ARAKKAL HOUSE, VADAKKANGARA-679336
THADATHILKKUND, MALAPPURAM DISTRICT.**
- 3. ASHFAQ ALI, AGED 34 YEARS,
S/O KOYA, KOLAKANTHATTIL HOUSE, VADAKKANGARA-679336
THADATHILKKUND, MALAPPURAM DISTRICT.`**

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4. SAINUL ABID, AGED 23 YEARS,
S/O.MUHAMMED, VILAKKATHIL HOUSE, VADAKKANGAR-679336
THADATHILKUNDU, MALAPPURAM DISTRICT.
5. FIROS, AGED 33 YEARS,
S/O.KUNJIMOHAMMED, KALATHIL HOUSE, VADAKKANGAR-679336
THADATHILKKUNDU, MALAPPURAM DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI. SURESH
R2 TO R5 BY ADV. SRI.P.SAMSUDIN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-07-2015 ALONG WITH CRL.M.C. 4338/2015, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE-A1: TRUE COPY OF THE FINAL REPORT, MEMORANDUM OF
EVIDENCE AND WOUND CERTIFICATE IN CRIME NO.154/2014
OF MANKADA POLICE STATION.**

**ANNEXURE-A2: THE AFFIDAVIT DATED 04.07.2015 SWORN BY THE
RESPONDENTS 2 TO 5.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

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Dated this the 14th day of July, 2015.

ORDER

The petitioners in Crl.M.C.No.4337/2015 are the accused Nos.1 to 5 in Anx-A1 final report/charge sheet filed in Crime No.154/2014 of Mankada Police Station registered for offences alleged under Secs.143, 147, 148, 341, 323, 324 r/w 149 of the IPC and the petitioners in Crl.M.C.No.4337/2015 are the accused Nos.1 to 7 in Anx-A1 final report/charge sheet in Crime No.156/2014 of the same Police Station registered for offences alleged under Secs.143, 147, 148, 341, 323, 324, 294(b) r/w 149 of the IPC. The prosecution allegation is that the accused in both cases formed themselves into an unlawful assembly and wrongfully restrained the respective defacto complainants due to previous enmity. It is submitted that the case and the counter case has been settled between the parties and that the respective defacto complainants have sworn to Anx-A2 affidavit in both cases wherein they have stated that they have no objection in the quashment of the impugned criminal proceedings pending against the respective petitioners. It is in the light of these aspects that the petitioners have

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filed these Crl.M.Cs 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, 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.

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3. Accordingly, it is ordered in Crl.M.C.No.4337/2015 that the impugned Anx-A1 final report/charge sheet filed in Crime No.154/2014 of Mankada Police Station and all further proceedings arising therefrom pending against the petitioners therein stand quashed under Sec.482 of the Code of Criminal Procedure. It is also ordered in Crl.M.C.No.4338/2015 that the impugned Anx-A1 final report/charge sheet filed in Crime No.156/2014 of Mankada Police Station and all further proceedings arising therefrom pending against the petitioners therein 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/-