

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

Crl.MC.No. 3151 of 2014 ()

AGAINST CP 71/2013 of J.M.F.C.,KASARAGOD
CRIME NO. 37/2011 OF KASARAGOD POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED:

1. UMMARFAROOK K.M.
S/O.LATE MOIDHU, R/AT NR.FISH MARKET, MARKATKUNNU
KASABA VILLAGE, KASARAGOD TALUK.
2. MUHAMMAD MUSHEER M. AGED 24 YEARS
S/O.B.M.MOIDEEN, R/AT THADAVILLA, GASALI NAGAR
PATTAL ROAD, THALANGARA VILLAGE, KASARAGOD TALUK.
3. JASSY @ YASIN K.M. AGED 27 YEARS
S/O.ASMA, R/AT THEUVATH, THALANGARA VILLAGE
KASARAGOD TALUK.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENT(S)/RESPONDENTS/COMPLAINANT/STATE:

1. SATHAR, AGED 36 YEARS
S/O.SULIMAN, SAJETHAMANZIL, GUSSAY
TEMPLE ROAD, KUDULU VILLAGE, KASARAGOD.
2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.SIJU MATHEW

R2 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 3151 of 2014

APPENDIX

PETITIONERS EXHIBITS:

ANNEXURE A1: THE COPY OF THE FINAL REPORT

ANNEXURE A2: THE COPY OF THE WITNESS LIST

ANNEXURE A3: THE AFFIDAVIT

RESPONDENTS EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.3151 of 2014**  
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Dated this the 9^h February, 2015

ORDER

The petitioners herein are the three accused in Crime No.37 of 2011 of the Kasaragod Police Station. Cognizance on the final report submitted by the Police was taken before the Judicial First Class Magistrate's Court-I, Kasaragod as C.P. 71 of 2013. The offences involved are under Sections 341, 323, 326 and 308 read with 34 of Indian Penal Code. The petitioners now seeks 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 on the complaint of one Sathar, who 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 now. There is police report that the petitioners 2 and 3 are involved in other crimes. One of the crimes is under Section 302 besides the other

offences. In the particular facts and circumstances, I feel it inappropriate to quash the prosecution as against the petitioners 2 and 3. When they are involved in other serious crimes, and when they have no reply to such allegations, the court cannot quash the prosecution against them under Section 482 of the Code of Criminal Procedure. However, as regards the 1st petitioner, there is no such report, and admittedly he has no bad antecedents. The settlement between him and complainant can be accepted, and the prosecution as against the 1st petitioner can be quashed under Section 482 of the Code of Criminal Procedure. On a perusal of the allegations, I find that orders in favour of the 1st petitioner will not in any manner affect the prosecution as against the other petitioners.

2. In so many decisions, the Hon'ble Supreme Court has held that if the parties have come to terms amicably, the High Court can quash the prosecution even in the case of non-compoundable offences. Here, the 1st petitioner and the 1st respondent have come to terms amicably, and I am well satisfied that now they are on quite cordial terms. Of

course, the complainant has no dispute with the others, but I am not inclined to quash the prosecution against them for the reasons stated above.

In the result, this petition is allowed. The request made by the petitioners 2 and 3 to quash the prosecution is disallowed. The prosecution as against the 1st petitioner alone in C.P. No.71 of 2013 of the Judicial First Class Magistrate's Court-I, Kasaragod will stand quashed. Accordingly, the learned Magistrate will take necessary steps to commit the case against the others to the Court of Session.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge