

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. 4375 of 2015

**CP 38/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -I, KANJIRAPPALLY.
CRIME NO. 89/2015 OF MUNDAKAYAM POLICE STATION.**
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PETITIONER(S)/ACCUSED NOS 1 TO 3:

1. SIBY @ AVIRACHAN,
S/O. JOSEPH, THOOMKUZHY HOUSE,
KARIKULAM KOOVAPPALLY PO,
KOTTAYAM DISTRICT, PIN-686518.
2. SANTHOSH MATHEW. S.O MATHEW,
KOZHIMALA HOUSE, VELICHIYANI,
PARATHODU P.O, KOTTAYAM DISTRICT, PIN - 686512.
3. SUNNY VARKEY, S/O VARKEY,
THEKKEVAYALIL HOUSE, NADUKANI,
EDAKKUNNAM P.O, KOTTAYAM DISTRICT, PIN-686512.

BY ADV. SRI.SERGI JOSEPH THOMAS

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. LALICHAN @ KURIAKOSE,
S/O. KURIAKOSE, MAPPILAKKUNNEL HOUSE,
INCHIYANI SRAMBI BHAGAM, MUNDAKKAYAM VILLAGE,
KOTTAYAM DISTRICT, PIN-686512.

**R1 BY PUBLIC PROSECUTOR SRI.SURESH.N
R2 BY ADV. SRI.K.SHAJ**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: THE CERTIFIED COPY OF THE FINAL REPORT IN
CRIME NO.89/2015 OF MUNDAKKAYAM POLICE STATION NOW
PENDING AS CP NO 38/2015 ON THE FILE OF THE JUDICIAL
FIRST CLASS MAGISTRATE COURT-1, KANJIRAPPALLY.**

ANNEXURE A2: AFFIDAVIT SWORN BY THE SECOND RESPONDENT.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 4375 of 2015

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Dated this the 14th day of July, 2015

ORDER

The petitioners herein are accused Nos.1 to 3 in the impugned Anx.A-1 final report/charge sheet filed in Crime No.89/2015 of Mundakkayam Police Station, registered for offences punishable under Secs.323, 324, 341, 326, 308 & 34 of the I.P.C., at the instance of the 2nd respondent defacto complainant, which has led to the pendency of C.P.No.38/2015 on the file of the Judicial First Class Magistrate's Court-1, Kanjirappally. It is stated that now the entire disputes between the petitioners and the 2nd respondent defacto complainant have been settled amicably and that the 2nd respondent has sworn to Anx.A-2 affidavit before this Court, wherein it is stated that he has settled the entire disputes with the petitioners and that he has no objection for quashment of the impugned criminal proceedings pending against the petitioners. 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.A-1 final report/charge sheet filed in Crime No.89/2015 of Mundakkayam Police Station, which has led to the institution of C.P.No.38/2015 on the file of the Judicial First Class Magistrate's Court-1, Kanjirappally, 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.

sd/-
ALEXANDER THOMAS, JUDGE

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///True copy///

P.S. to Judge