

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. 4378 of 2015

**S.C.NO.749/2014 OF ADDITIONAL DISTRICT AND SESSIONS COURT - II,
KASARAGOD
CRIME NO. 306/2012 OF VELLARIKUNDU POLICE STATION ,
KASARGOD DISTRICT**

PETITIONER(S)/1ST ACCUSED :

**NITHIN.P.V @ KUTTAN, AGED 28 YEARS,
S/O.THAMBAN, RESIDING AT PULIKODAN HOUSE,
THAYANNUR VILLAGE, KASARAGOD DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENT(S)/STATE :

**1. THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
VELLARIKUNDU POLICE STATION, KASARAGOD DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

**2. BASHEER P.K, AGED 26 YEARS,
S/O.P.KABDULLA, RESIDING AT P.K.HOUSE, EDATHODE,
PARAPPA VILLAGE, VELLARIKUNDU TALUK,
KASARAGOD DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN
R2 BY ADV. SMT.G.SANGEETHA**

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

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1:** THE TRUE CERTIFIED COPY OF THE FIR IN
CRIME NO.306/2012 IF VELLARIKUNDU POLICE STATION.
- ANNEXURE A2:** THE CERTIFIED COPY OF THE FINAL REPORT IN
CRIME NO.306/2012 OF VELLARIKUNDU POLICE STATION.
- ANNEXURE A3:** THE AFFIDAVIT DATED 22.06.2015 SWORN BY
THE 2ND RESPONDENT.
- ANNEXURE A4:** THE TRUE CERTIFIED COPY OF THE MEMO OF EVIDENCE
IN CRIME NO.306/2012 OF VELLARIKUNDU POLICE STATION

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Crl.M.C.No. 4378 of 2015

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Dated this the 14th day of July, 2015

ORDER

The petitioner herein is the 1st accused in the impugned Anx.A-2 final report/charge sheet filed in Anx.A-1 FIR in Crime No.306/2012 of Vellarikundu Police Station, registered for offences punishable under Secs.143, 147, 148, 506(1), 341, 323, 324, 308 read with Sec.149 of the I.P.C., at the instance of the 2nd respondent defacto complainant. There were altogether nine accused in the above referred crime. In the committal proceedings, accused Nos.2 to 9 appeared and their case was committed to the Court of Sessions, Kasargod, wherein it was taken cognizance of as S.C.No. 236/2013. Subsequently, the petitioner appeared before the learned Magistrate concerned and the case against him was also committed to the Additional Sessions Court-II, Kasargod as S.C.No.749/2014. It is stated that now the entire disputes between the petitioner and 2nd respondent defacto complainant have been settled amicably and that the 2nd respondent has sworn to Anx.A-3 affidavit before this

Court, wherein it is stated that he has settled the entire disputes with the petitioner herein and that he has no objection for quashment of the impugned criminal proceedings pending against the petitioner. It is in the light of these aspects that the petitioner has preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against him.

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-2 final report/charge sheet filed in Anx.A-1 FIR in Crime No.306/2012 of Vellarikundu Police Station, which has led to the institution of S.C.No.749/2014 on the file of the Additional Sessions Court-II, Kasargod, and all further proceedings arising therefrom pending against the petitioner herein stand quashed.

The Crl.M.C. is disposed of as above.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge