

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

Crl.MC.No. 4402 of 2015

CC 1013/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-VADAKARA
CRIME NO. 136/2013 OF EDACHERRY POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED NO.1 TO 15 (ALL ACCUSED):

1. NASAR, AGED 40 YEARS,
S/O.MOOSA, RESIDING AT ETAKONHITHAZHA KUNNIYIL HOUSE,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.
2. DAMODARAN, AGED 58 YEARS,
S/O.CHATHU, RESIDING AT KIZHAKKEMANGATT HOUSE,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.
3. KUMARAN, AGED 67 YEARS,
S/O.KANNARAN, RESIDING AT KAYAKKOTH THEKKE CHALLYIL,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.
4. RAJEEVAN, AGED 40 YEARS,
S/O.KUNHIKANNAN, RESIDING AT PADINJARA KUNYIL,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.
5. BABU RAJ, AGED 50 YEARS,
S/O.PYTHAL @ CHATHU, MUNDANGATTUKUNYIL,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.
6. KUNJA ABDULLA, AGED 62 YEARS,
S/O.ABOOBAKER, THEKENADUMPARATH, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
7. RAVEENDRAN, AGED 52 YEARS,
S/O.APPU, NADUMPURATH THAZHEKUNYIL, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
8. HUSSAIN, AGED 42 YEARS,
S/O.IBRAHIM, ETAKKOLITHARI, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.

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9. LATHEEF, AGED 48 YEARS,
S/O.KUNJAMADKUTTY, NADUMPURATH KUNIYIL,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.
10. E.K. RILESH, AGED 27 YEARS.
S/O.E.K.BALAN, ETAKOZHINHITHAZHAKUNI, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
11. E.K.EASA, AGED 42 YEARS,
S/O.KUNJABDULLA, KOLOTHU KANDIYIL, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
12. K.K.AMMAD @ KUNHAMMAD, AGED 62 YEARS,
S/O.MOOSA, CHAKKERI, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
13. ASOKAN, AGED 54 YEARS,
S/O.CHATHU, ASARI KUNIYIL HOUSE, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
14. BALAN, AGED 56 YEARS,
S/O.KANNARAN, ETAKKOZHINHI, P.O.KUNNUMAKARA,
VATAKARA, KOZHIKODE DISTRICT.
15. ASSEES, AGED 55 YEARS,
S/O.MOOSA HAJI, VATTAKKATTUTHAZHAKUNIYIL,
P.O.KUNNUMAKARA, VATAKARA, KOZHIKODE DISTRICT.

BY ADVS.SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
(IN CRIME NO.136/2013 OF EDACHERY POLICE STATION
NOW PENDING AS CC.NO.1013/2013,
ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
VATAKARA) P.O. KERALA HIGH COURT, COCHIN 31, PIN 682031.
2. KHADER HAJI, AGED 58 YEARS, S/O.MOOSA HAJI,
RESIDING AT VATTAKATTU THAZHAKKUNIYIL,
KUNNUMAKKARA AMSOM, DESOM VATAKARA TALUK,
KOZHIKODE DISTRICT, KERALA, PIN 673101.

R2 BY ADV. SRI.MANSOOR.B.H.
R1 BY PUBLIC PROSECUTOR SRI.GITHESH. R.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4402 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE 1: TRUE COPY OF THE FINAL REPORT FILED BY THE EDACHERY POLICE
IN CRIME NO. 136/2013 NOW PENDING BEFORE THE JUDICIAL FIRST
CLASS MAGISTRATE COCIRT, VATAKARA AS CC.NO.1013/2013**

**ANNEXURE 2: ORIGINAL OF THE AFFIDAVIT OF 2ND RESPONDENT SWORN BEFORE
THE COMPETENT OFFICER OF EMBASSY**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No.4402 of 2015

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Dated this the 21st day of July, 2015

ORDER

The petitioners seek orders quashing the impugned Annx.1–Final report/charge sheet and further proceedings in Crime No.136/2013 of Edachery Police Station, registered for offences under Sections 143, 147, 148, 447, 448, 427, 506(1), 294(b), 342 r/w 149 of the IPC on which has led to the institution of C.C.No.1013/2013 on the file of the Judicial First Class Magistrate Court–I, Vatakara. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant is the 2nd 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.

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 continuance of 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 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, the impugned Annx.1 final report/charge sheet and further proceedings arising out of crime No.136/2013 of Edachery Police Station, Kozhikode Rural, including all further proceedings arising out of C.C.No.1013/2013 on the file of Judicial First Class Magistrate Court-I, Vatakara, pending against

the petitioners herein will stand quashed under Section 482 of the Code of Criminal Procedure.

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

Sd/-
ALEXANDER THOMAS, JUDGE

AVS