

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. 4453 of 2015 ()

CC.NO. 779/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, VATAKARA

PETITIONER/ACCUSED NO.5 :

SAFEER,
AGED 25 YEARS, S/O.USMAN,
SHUHARATHU MANZIL, AZHIYOOR
HAJIYAR PALLI, AZHIYOOR (PO),
KOZHIKODE DISTRICT.

BY ADVS.SRI.K.B.ARUNKUMAR
SRI.RANJIT BABU

RESPONDENTS/STATE AND DEFACTO COMPLAINANT AND INJURED :

1. STATE OF KERALA,
REPRESENTED THROUGH THE SUB INSPECTOR OF POLICE
EDACHERY POLICE STATION, KOZHIKODE DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM,
PIN-682 032.

2. AMJAD,
S/O.IBRAYI, AGED 26 YEARS
AMBALATHUMKANDY, AZHIYOOR VILLAGE
AZHIYOOR (P.O), KOZHIKODE DISTRICT, PIN-673309.

3. RASHEED,
S/O.SHUKKUR, AGED 28 YEARS
MUNDUVALAPPIL, ASYA ROAD
AZHIYOOR VILLAGE, AZHIYOOR (PO),
KOZHIKODE DISTRICT
PIN-673 309.

R1 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN
R2 & R3 BY ADV. SRI.PRATHEESH P.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-07-2015, ALONG WITH CRL.M.C. NO. 4560/2015, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

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Crl.MC.No. 4453 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

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| ANNEXURE-1 | THE CERTIFIED COPY OF THE FIR IN CRIME NO.38/2009 OF EDACHERY POLICE STATION. |
| ANNEXURE-2 | THE CERTIFIED COPY OF THE FINAL REPORT IN C.C.779/2009 NOW PENDING ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, VATAKARA. |
| ANNEXURE-3 | THE AFFIDAVIT DATED 09.07.2015 EXECUTED BY THE 2ND RESPONDENT. |
| ANNEXURE-4 | THE AFFIDAVIT DATED 09.07.2015 EXECUTED BY THE 3RD RESPONDENT. |

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.
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Crl.M.C No.4453 of 2015
&
Crl.M.C No.4560 of 2015
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Dated this the 21st day of July, 2015
O R D E R

The petitioners in these two Crl.M.Cs seek a prayer for quashment of the impugned criminal proceedings pending against them on the basis of settlement arrived at between the petitioners/accused and contesting respondents 2 and 3 who are the de facto complainants/injured. The three petitioners in Crl.M.C 4560/15 are accused 1, 3 and 4 in the impugned Crime No.38/2009 of Edachery Police Station registered for the offences u/s143, 147, 148, 341, 323, 324 r/w 149 of IPC. The petitioner in Crl.M.C No.4453 of 2015 is accused No.5 in that crime. All together there are 5 accused and accused No.2 was a juvenile as on the date of the alleged occurrence and therefore his case was tried separately before the Juvenile Court and it is pointed by the petitioner that accused No.2, (juvenile) has already been acquitted by the competent Juvenile court. The police after investigation submitted Anx.2 final report/charge sheet in the impugned Anx.1

crime No. 38/2009 of Edachery Police Station. 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. The other person who sustained injuries in the alleged incident are the respondent No.3. He has also filed affidavit to the effect that he has settled the dispute with the accused and he has no grievance or complaint now.

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.

Accordingly, the impugned F.I.R and further proceedings arising out of Crime No.38/2009 of Edachery Police Station, including all further proceedings arising out of C.C.No.779/2009 on the file of the Judicial First Class Magistrate Court, Vatakara pending against the petitioners in these cases 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.

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ALEXANDER THOMAS, JUDGE

Crl.M.C No.4453 of 2015
&
Crl.M.C No.4560 of 2015

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