

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

Crl.MC.No. 4509 of 2015

**SC 107/2012 OF ASSISTANT SESSIONS COURT, CHENGANNUR
CRIME NO. 935/2009 OF CHENGANNOOR POLICE STATION , ALAPPUZHA**

PETITIONER(S)/ACCUSED 1 AND 2:

1. SIJEESH, AGED 36 YEARS,
S/O. SUKUMARAN, RESIDING AT POOVAPPALLY S.S VILLA,
PERISERRI, CHENGANNUR, ALAPUZHA DISTRICT.
2. SHIBEESH, AGED 34 YEARS,
S/O. SUKUMRAN, RESIDING AT POOVAPPALLY S.S. VILLA,
PERISERRIMURI, CHENGANNUR, ALAPUZHA DISTRICT.

BY ADV. SRI.RAVI KRISHNAN

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT/ INJURED:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. VIJAYAN @ KUTTAN,
S/O. PODIYAN, RESIDING AT AYLITHARA HOUSE, PERISERRI,
CHENGANNUR, ALAPUZHA DISTRICT.

**R1 BY PUBLIC PROSECUTOR SRI.N.SURESH
R2 BY ADV. SRI.K.N.RADHAKRISHNAN(THIRUVALLA)**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 4509 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

**A1 - COPY CHARGE IN S.C NO. 107/2012 ASSISTANT SESSIONS COURT,
CHENGANNUR.**

A2 - AFFIDAIVT OF 2ND RESPONDENT

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

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Crl.M.C No.4509 of 2015

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Dated this the 17th day of July, 2015

O R D E R

The petitioners seek orders for quashing the F.I.R and further proceedings in Crime No. 935/2009 of Chengannur Police Station, registered under Sections 308, 326, 324, 323 and 34 of IPC. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court.

2. There was a counter case in this matter which is registered as Crime No.974/2009 of the Chengannur Police Station in which the sons of the second respondent were the accused and the petitioners herein and their mother were the de facto complainants in that counter case. Further that the impugned criminal proceedings in that counter case was also settled between the parties and this Court as per judgment dated 17.7.2015 in Crl.M.C No.4512/2015 has quashed the impugned criminal proceedings pertaining to the said counter case in Crime

No.974/2009.

3. 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 and he has no objection for quashment of the impugned criminal proceedings pending against the petitioners.

4. 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.

5. Accordingly, the impugned F.I.R and further proceedings arising out of Crime No. 935/2009 of Chengannur Police Station, including all further proceedings arising out of S.C.No. 107/2012 on the file of the Assistant Sessions Court, Chengannur 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/-

sab

ALEXANDER THOMAS, JUDGE