

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Crl.MC.No. 4520 of 2015 (D)

C.C.NO.2339/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD

CRIME NO. 200/1997 OF CHAVAKKAD POLICE STATION , THRISSUR

PETITIONER/1ST ACCUSED :-

**SIDHARTHAN, AGED 59 YEARS,
S/O.KESAVAN, VENKALATH HOUSE, MAMMYYOOR,
GURUVAYOOR, NOW AT G-1449, 1ST FLOOR,
CHITTARANJAN PARK, NEW DELHI - 110019.**

**BY ADVS.SRI.P.SREEKUMAR
SRI.S.GANESH**

RESPONDENTS/COMPLAINANT & STATE :-

- 1. BABY K.V., KALLATT HOUSE,
PAZHUVIL P.O., KURUMBILAVU VILLAGE,
PIN - 680 564.**
- 2. SUMA, VELTHEDATHU HOUSE,
PAZHUVIL P.O.,
KURUMBILAVU VILLAGE, PIN - 680 564.**
- 3. VANAJA,
KADUKKATTIL, PAZHUVIL P.O.,
KURUMBILAVU VILLAGE, PIN - 680 564.**
- 4. SUNITHA, KODIYATTIL,
PAZHUVIL P.O.,
KURUMBILAVU VILLAGE, PIN - 680 564.**
- 5. LEELA, CHUNADYIL,
PAZHUVIL P.O.,
KURUMBILAVU VILLAGE, PIN - 680 564.**

Contd...2

**6. ISHABHI, W/O.SHAHUL HAMEED,
HAZEENA MANZIL,
PAZHUVIL DESOM,
KURUMBILAVU VILLAGE,
THRISSUR.**

**7. STATE OF KERALA,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.**

**R1 - R6 BY ADV. SRI.B.S.SIVAJI
R7 BY SMT.S.HYMA, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4520 of 2015 (D)

APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE - A1 : A TRUE COPY OF THE CHARGE SHEET DATED 27.8.1997 ALONG WITH THE FIRST INFORMATION REPORT.

ANNEXURE - A2 : A TRUE COPY OF THE RECEIPT ISSUED BY ALL THE DEFACTO COMPLAINANTS.

ANNEXURE - A3 : A TRUE COPY OF THE APPLICATION DATED 01.10.2014 FILED BY THE DEFACTO COMPLAINANTS U/S.320(2) CR.P.C. FOR PERMISSION OF THE COURT TO SETTLE THE MATTER IS PRODUCED.

ANNEXURE - A4 : A TRUE COPY OF THE ORDER PASSED BY THE JFMC, CHAVAKKAD DATED 01.10.2014.

RESPONDENT(S)' ANNEXURES :- NIL

rkj

//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

=====
Crl.M.C.No.4520 of 2015
=====

Dated this the 23rd day of July, 2015

ORDER

The petitioner herein is the first accused in Crime No.200 of 1997 of the Chavakkad Police Station. His wife was the third accused in the crime. The case was transferred to the register of long pending cases. The material witness and the third accused came to terms, when she was brought arrested in the Court in 2014. The case against the third accused was filed as C.C.No.2339 of 2014, and she got the benefit of the acquittal under Section 320 (8) Cr.P.C. on composition. The case against the others now continues in the register of long pending cases. The first accused now seeks orders under Section 482 Cr.P.C., quashing the prosecution as against him. The offences are well compoundable under the law with the permission of the Court. The case against the third accused was thus compounded before the trial court itself. When such remedy is possible as the right remedy, this Court cannot quash the prosecution under Section 482 Cr.P.C. The petitioner and the material witnesses will have to approach the trial court for composition under Section 320 Cr.P.C. It is submitted that the petitioner herein has some practical difficulties to appear in

Court in person. The learned counsel makes a request to exempt him from personal appearance when composition is filed by the trial court. The request is quite genuine. This Court has settled the legal position that when the composition is reported before the court and the composition is acceptable personal presence of the accused need not be insisted. If the material witnesses come to Court, and satisfy the Court that there is a proper and legal composition, it can be accepted by the Court, and the benefit of the acquittal can be given to the accused even in his absence.

With this observations, this Crl.M.C. is disposed of.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE