

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Crl.MC.No. 3352 of 2014 ()

LP.NO. 32/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -V, KOZHIKODE
CRIME NO. 122/2007 OF BEYPORE POLICE STATION , KOZHIKODE DISTRICT

PETITIONER(S)/ACCUSED :

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- *1. SULPHIKAR,
S/O. ABDULLAKUTTY, AGED 47 YEARS, JAISAL HOUSE,
PULAMUTTAMPARAMBU, MATHOTTAM,
ARAKKINAR, KOZHIKODE DISTRICT. (DELETED)
 - *2. NOUFAL, S/O. ABDULLAKUTTY, AGED 36 YEARS,
JAISAL HOUSE, PULAMUTTAMPARAMBU,
MATHOTTAM, ARAKKINAR, KOZHIKODE DISTRICT. (DELETED)
 - *3. NISAR, S/O. ABDULLAKUTTY, AGED 30 YEARS,
JAISAL HOUSE, PULAMUTTAMPARAMBU,
MATHOTTAM, ARAKKINAR, KOZHIKODE DISTRICT. (DELETED)
 - *4. MANSOOR, S/O. ABDULLAKUTTY, AGED 42 YEARS,
JAISAL HOUSE, PULAMUTTAMPARAMBU,
MATHOTTAM, ARAKKINAR, KOZHIKODE DISTRICT. (DELETED)
 - 5. SUBAIR K.P., S/O. ABU, AGED 37 YEARS,
KALLINGAL PUTHIYAPURAYIL, CHAKEERIKADU PARAMBU,
ARAKINAR, KOZHIKODE DISTRICT.

*P1 TO P4 ARE DELETED AS PER ORDER IN CRL.M.A.NO.1661/2015
DATED 11/08/2015

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

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- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.PIN-682 031
 - 2. SAIDALAVI, S/O. AYAMUTTY, AGED 59 YEARS,
MUBEENA MANZIL, NADUVATTOM AMSOM, MARADU DESOM,
POST MARADU, KOZHIKODE DISTRICT-673 572.

R1 BY PUBLIC PROSECUTOR SRI.GITHESH.R.
R2 BY ADVS. SMT.T.J.SEEMA
SRI. A.V.ANWAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 11-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Crl.MC.No. 3352 of 2014 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX A1 : COPY OF THE FIR IN CRIME NO.122/2007 OF BEYPORE POLICE STATION, DTD. 23.11.2007.**
- ANNEX A2 : COPY OF THE FINAL REPORT IN CRIME NO.122/2007 OF BEYPORE POLICE STATION, DTD. 9.4.2008.**
- ANNEX A3 : COPY OF THE AGREEMENT ENTERED BETWEEN THE 2ND PETITIONER AND THE DAUGHTER OF THE DEFACTO COMPLAINANT DTD. 18.5.2010.**
- ANNEX A4 : COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT DTD. 10.6.2014.**

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No.3352 of 2014

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Dated this the 11th day of August, 2015

ORDER

The petitioner herein is accused No.5 in the impugned Annexure-A1 Crime No.122/2007 of Beypore Police Station, Kozhikode District registered for offences under Sections 143, 147, 323, 427 read with Section 149 of the IPC (Petitioners 1 to 4 were deleted as per the order dated 11/08/2015 in Crl.M.A.No.1661/2015 filed in this Crl.M.C.). The police after investigation had submitted the impugned Annexure-A2 Final Report/Charge Sheet in Crime No.122/2007 of Beypore Police Station which has led to the institution of Calandar Case C.C.No.138/2008 before the Judicial First Class Magistrate Court-V, Kozhikode. The petitioner did not participate in the trial and the case against him was split up and the trial in respect of accused 1 to 4 in the crime proceeded in Calendar Case 138/2008 before the JFMC-V, Kozhikode. The said Magistrate Court rendered judgment dated 07/06/2010 in C.C.No.138/2008 acquitting accused 1 to 4 in the above crime. According to the

petitioner, the substratum of the prosecution case has been shattered by the acquittal of the co-accused in judgment in C.C.No.138/2008. Moreover it is also stated that the entire disputes between the petitioner herein (A5) in the Crime and the de facto complainant (R2) have been settled and the 2nd respondent has sworn to Annexure-A4 affidavit (pursuant to Annexure-A3 agreement), whereby he has stated that the entire disputes between the petitioner and the 2nd respondent has been amicably settled and that the 2nd respondent has no objection whatsoever for quashment of the impugned criminal proceedings pending against the petitioner. It is pointed out that the impugned criminal proceedings pending against the petitioner arising out of the aforestated Final Report in the crime are now pending as L.P.No.32/2012 on the file of the Judicial First Class Magistrate Court-V, Kozhikode. It is on this basis, the prayer for quashment has made out by the petitioner in this case.

2. Heard Sri.C.M.Mohammed Iqubal, learned counsel for the petitioner, and the learned Public Prosecutor appearing for the respondent State of Kerala.

3. On a perusal of judgment in C.C.No.138/2008 it can be

seen that the trial court has conclusively held that there is no evidence to connect the said co-accused persons (A1 to A4) with the impugned charges and acquitted the said co-accused persons. From a mere reading of the above said judgment it is crystal clear that the substratum of the prosecution has been shattered by the acquittal of the said co-accused persons. No meaningful purpose will be subserved by prolonging the agony of the impugned criminal proceedings now pending against the petitioner. Any further continuance of the impugned criminal proceedings would amount to mere wastage of precious resources of the State including that of the judiciary. Moreover it is seen that the the petitioner and the contesting respondent No.2 have settled their disputes (arising out of the impugned crime) as borne out by Anx. A4 affidavit sworn to by the 2nd respondent defacto complainant, in which he has stated that he has no objection for quashment of the impugned criminal proceedings against the petitioner. In this view of the matter, it is ordered in the interest of justice that the impugned Anx.A1 FIR and Anx.A2 final report/charge sheet filed in the impugned Anx. A1 Crime No.122/2007 of Beypore Police Station, which has led to the pendency of L.P No. 32/2012 on the file of the Judicial First Class

Magistrate Court-V, and all further proceedings arising therefrom pending against the petitioner herein (A5) stands quashed.

With these observations and directions, the Criminal Miscellaneous Case stands finally disposed of.

Sd/- ALEXANDER THOMAS, JUDGE

MJL

