

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

Crl.MC.No. 4548 of 2015 ()

CC.NO. 84/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-V,
THIRUVANANTHAPURAM
CRIME NO. 401/2007 OF MUSEUM POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED NOS. 2 & 3 :

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- 1. R.SHAJI,**
AGED 60, S/O.RAGHAVAN,
DIVYA PRABHA HOUSE
NERA MARAPPALAM JUNCTION,
PATTOM, KAVADIYAR.
 - 2. UNNIKRISHNA PILLAI,**
AGED 41, S/O.NARAYANA PILLAI,
UNNIKRISHNA MANDHIRAM, VELIYAM
ODANAVATTOM, KOTTARAKKARA.

BY ADV. SRI.C.P.JDAYABHANU

RESPONDENT/COMPLAINANT :

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- 1. SATHEESH,**
AGED 45, S/O.DEVADAS, T.C.17/1204, UMA NILAYAM
NEAR S.K.HOSPITAL, POOJAPPURA, THIRUVANANTHAPURAM
PIN-695 012.
 - 2. STATE OF KERALA,**
REPRESENTED BY THE S.I. OF POLICE
MUSEUM POLICE STATION
(CRIME NO. 401/2007)
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.G.SIJI
R2 BY PUBLIC PROSECUTOR SRI. R. GITHESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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...2/-

Crl.MC.No. 4548 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE I A CERTIFIED COPY OF THE FINAL REPORT IN C.C.84/13 PENDING ON
 THE FILE OF JFCM COURT-V, THIRUVANANTHAPURAM.**

**ANNEXURE-II AFFIDAVIT SWORN BY R1 THE DE FACTO COMPLAINANT IN
 ANNEXURE-I.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 4548 of 2015

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Dated this the 20th day of July, 2015

O R D E R

The petitioners herein are accused Nos.2 and 3 in the impugned Anx.1 final report/charge sheet filed in Crime No.401/2007 of Museum Police Station, Thiruvananthapuram district, registered for offences punishable under Secs.120B, 420 read with Sec.34 of the I.P.C., at the instance of the 1st respondent herein, which has led to the institution of Calendar Case, C.C.No.84/2013 on the file of the Judicial First Class Magistrate's Court-V, Thiruvananthapuram. Originally, in addition to the petitioners herein (A-2 and A-3), there was one more accused (A-1) in the above referred crime, proceedings arising out of the very same crime to the extent it affected against whom, were quashed by this Court on the ground of settlement, as per the order dated 27.2.2015 in Crl.M.C.No.2809/2014. It is stated that now the entire disputes between the petitioners herein (A-2 & A-3) and the 1st respondent defacto complainant have also been settled amicably and that the 1st

respondent has sworn to Anx.II affidavit before this Court, wherein it is stated that he has settled the entire disputes with the petitioners herein and that he has no objection for quashment of the impugned criminal proceedings pending against the petitioners herein. It is in the light of these aspects that the petitioners have preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against them.

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 the continuance of the 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 the 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, it is ordered in the interest of justice that the impugned Anx.1 final report/charge sheet filed in Crime No.401/2007 of Museum Police Station, Thiruvananthapuram district, which has led to the institution of Calendar Case, C.C.No.84/2013 on the file of the Judicial First Class Magistrate's Court-V, Thiruvananthapuram, and all further proceedings arising therefrom pending against the petitioners herein stand quashed.

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

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge