

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

Crl.MC.No. 4619 of 2015

**CC 582/2010 OF CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD.
CRIME NO. 790/2009 OF KASARAGOD POLICE STATION, KASARAGOD.**
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PETITIONER(S)/ACCUSED:

1. MUHAMMEDKUNHI K., AGED 26 YEARS,
S/O. ASSAINAR, MASTHIKKUNDU, POVVAL,
MULIYAR POST AND VILLAGE, KASARAGOD.
2. MUHAMMED RISHAD, AGED 27 YEARS,
S/O. ABULLDA, RISHAD MANZIL, HIDAYATH NAGAR,
MUTTATHODY VILLAGE, KASARAGOD.
3. HABEEB RAHMAN, AGED 27YEARS,
S/O. ABDUL RAHMAN, HABEEB COTTAGE,
CHALIYANKODE, KALANAD VILLAGE, KASARAGOD.
4. NAJEEB K., AGED 26 YEARS,
S/O. KUNHAMU E.K, NAZEEMA MANZIL, ECHILIKKAL,
UDUMA, BARA VILLAGE, KASARAGOD.
5. SALIM SAFEEQ K., AGED 26 YEARS,
S/O. AHAMMED, KUNNARIYATH HOUSE,
CHEMNAD VILLAGE, KASARAGOD.
6. HASSAN RAMSHUD, AGED 27 YEARS,
S/O. MUHAMMED C.A, CHETTUMKUZHI,
HIDAYATH NAGAR, MUTTATHODY VILLAGE,
KASARAGOD.
7. SAHEER AHAMMED M., AGED 27 YEARS,
S/O. MUSSA, MAIDANICKAL HOUSE,
BEDADUKKA P.O., KASARAGOD.
8. ABDUL FAVAZ.E, AGED 26 YEARS,
S/O.M.A. IBRAHIMKUTTY, LULU APARTMENTS,
ADUKKA P.O, BANTHIYOD, KASARAGOD.
9. AHAMMED ASHFAK A.K., AGED 26 YEARS,
S/O. ABOOBAKER, KUNNARIYATHKUNNIL HOUSE,
CHEMNAD P.O., KASARAGOD.

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10. SHIHAD B.A., AGED 27 YEARS,
S/O. BEEFATHIMA, PARA HOUSE, NAIMARMOOLA,
VIDYANAGAR, KASARAGOD.
11. MUHAMMED HANEEFA T.A., AGED 27 YEARS,
S/O. HAMSA, MEETHALMANGAD HOUSE,
BARA VILLAGE, UDUMA, KASARAGOD.
12. MUHAMMED USAM E., AGED 28 YEARS,
S/O. P. IBRAHIM, PALLAMKODE HOUSE, URDOOR,
ADOOR VILLAGE, KASARAGOD.

BY ADV. SRI.S.JIJI

RESPONDENT(S)/STATE AND INJURED:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. NAVEENKUMAR A., AGED 26 YEARS,
S/O. GOURAJI RAO., ATHITHANMOOLA,
KUNDAR VILLAGE, KASARAGOD.
3. PRASAD K., AGED 29 YEARS,
S/O. CHANDRAN K., KOYAKOODAL HOUSE,
ADHUR POST, MULLERIA, KASARAGOD.
4. PAVITHRAN V., AGED 30 YEARS,
S/O. BABU, ARAMANGANAM, UDUMA POST,
KASARAGOE.
5. SHARAN K.R., AGED 26 YEARS,
S/O. RAGHAVAN K.K., SHRIJANYA HOUSE,
KUNIYILPALAM, KOTHUPARAMBA,
KANNUR DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN
R2 TO R5 BY ADV. SMT.K.S.SANTHI

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1 : TRUE COPY OF F.I.R IN CR.790/2009 OF KASARAGOD POLICE STATION.

ANNEXURE A2 : CERTIFIED COPY OF FINAL REPORT IN CR.NO.790/2009 OF KASARAGOD POLICE STATION.

ANNEXURE A3(A) : AFFIDAVIT DATED 10.6.2015 SWORN BY THE 2ND RESPONDENT.

ANNEXURE A3(B) : AFFIDAVIT DATED 10.6.2015 SWORN BY THE 3RD RESPONDENT.

ANNEXURE A3(C) : AFFIDAVIT DATED 10.6.2015 SWORN BY THE 4TH RESPONDENT.

ANNEXURE A3(D) : AFFIDAVIT DATED 10.6.2015 SWORN BY THE 4TH RESPONDENT.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Dated this the 22nd 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.790 of 2009 of Kasaragod Police Station, registered under Sections 143, 147, 148, 326, 323, 324 and 452 r/w 149 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. 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 persons who sustained injuries in the alleged incident are the respondent Nos. 3 to 5. They have also filed affidavit to the effect that they have settled the dispute with the accused and they have no grievance or complaint now and they have no objection for quashment of the impugned criminal proceedings pending against the petitioners.

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.790 of 2009 of Kasaragod Police Station,

including all further proceedings arising out of C.C.No.582/2010 on the file of the Chief Judicial Magistrate Court, Kasaragod 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