

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

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

Crl.MC.No. 4652 of 2015

**CC 111/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM
CRIME NO. 2459/2013 OF ERNAKULAM CENTRAL POLICE STATION, ERNAKULAM**
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PETITIONER(S)/ACCUSED :

1. JAFAR, AGED 24 YEARS,
S/O. P.K.SOMARAJAN, KADAMBANADU SOUTH P.O.,
PATHANAMTHITTA.
2. ASHKAR, AGED 24 YEARS,
S/O. SHAKTHIDHARAN, PUTHANPURAKKAL HOUSE, KUMBALANGI,
KOCHI-07. (EXPIRED)
3. AMEER, AGED 28 YEARS,
S/O. THOMAS PAUL, MOONJAPILLY VEEDU, THALAKKOTTUNADA
THENGODU P.O., ERNAKULAM.
4. ARUN, AGED 27 YEARS,
S/O. P.K.SHANMUKHAN, PUTHUPARAMBIL VEEDU
CHENDAMKULAM P.O., NORTH PARAVOOR.
- * 5. RAMESH V.S., AGED 27 YEARS,
S/O. SASIDHARAN, VATTUKULAM VEDU, KANNARA P.O.,
THRISSUR.
6. AMAL K.P., AGED 27 YEARS,
S/O. PEETHAMBARAN, KOZHIKKATTIL HOUSE,
THAIKKATTUKARA P.O., NORTH PARAVOOR, ALUVA.
7. SHANDAS, AGED 28 YEARS,
S/O. SURESH, S.S.VILLA, EYYAPPATTA,
VELLARADA P.O., THIRUVANANTHAPURAM.
- * 8. SYAM, AGED 30 YEARS,
S/O. BHASI, KOTTARATHIL HOUSE, CHEMBU P.O.,
VAIKOM.

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9. **RENJITH RAJAPPAN, AGED 28 YEARS,
S/O. ACHUTHAN, CHITHRABHAVAN, NEAR PETROL PUMP,
THIRUVANANTHAPURAM.**
10. **ARSHOM, AGED 29 YEARS,
S/O. K.J.AYYAPPAN, ELLUNADA, KARODE VEEDU,
VELLUR, PUTHANKURISH P.O., ERNAKULAM.**
11. **FAISAL, AGED 26 YEARS,
S/O. DIVAKARAN ASHARI, DEEPA NIVAS, ETTIN KADAVU,
KADAKKAL P.O., KOLLAM.**

*** PETITIONERS 5 & 8 ARE DELETED FROM THE PARTY ARRAY
AS PER ORDER DTD. 23.07.2015.**

BY ADV. SRI.R.ROHITH

RESPONDENT(S)/COMPLAINANT:

1. **STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
2. **ABDUL SABEER, AGED 26 YEARS,
S/O. IBRAHIMKUTTY, VELLARKODATH HOUSE, MUTTAM BHAGAM,
THAIKKATTUKARA DESOM, ALUVA WEST VILLAGE, PIN - 683 101.**

R1 BY PUBLIC PROSECUTOR SRI.GITHESH R.

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

msv/

Crl.MC.No. 4652 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1 : A TRUE COPY OF FIR DTD.6.12.2013 REGISTERED BY ERNAKULAM
CENTRAL POLICE AS CR.NO.2459/2013.**

**ANNEXURE A2 : A COPY OF THE CHARGE SHEET DTD. 31.12.2013 IN CC 111/14
PENDING BEFORE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT,
ERNAKULAM.**

ANNEXURE A3 : A COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C.No.4652 of 2015

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Dated this the 23rd day of July, 2015

O R D E R

The eleven petitioners herein were originally the eleven accused in the impugned Anx.A-1 FIR in Crime No.2459/2013 of Ernakulam Central Police Station, registered for offences under Secs. 143, 147, 323, 326 and 149 IPC. It was later, the Police after investigation submitted the impugned Anx.A-2 Final Report/ Charge Sheet in the above said impugned crime, whereby only nine among the eleven petitioners, have been arrayed in the accused array and accused Nos.5 and 8 have been deleted from the accused array in the impugned final report/charge sheet. Therefore, based on the submission on both sides, this Court has ordered deletion of petitioners 5 and 8 from the petitioners array in the cause-title of this Crl.M.C. The gist of the prosecution case is that on 6.12.2013 at about 10.30 a.m. at Ernakulam Law College campus, the petitioners herein, who were Law College students, conspired themselves with an willful intention to attack the defacto

complainant, attacked him and inflicted injury on him due to personal animosity. It is stated that now the entire disputes between the petitioners and the 2nd respondent defacto complainant have been settled amicably and that the 2nd respondent has sworn to Anx.A-3 affidavit before this Court, wherein it is stated that he has settled the entire disputes with the petitioners and that he has no objection for quashment of the impugned criminal proceedings pending against the petitioners. 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.A-2 final report/charge sheet filed in Anx.A-1 Crime No.2459/2013 of Ernakulam Central Police Station, which has led to the institution of Calendar Case, C.C.No.111/2014 on the file of the Chief Judicial Magistrate's Court, Ernakulam, 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.

sd/+

///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge

