

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. 4654 of 2015

**CC 364/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KALAMASSERY
CRIME NO. 981/2012 OF KALAMASSERY POLICE STATION, ERNAKULAM**
.....

PETITIONER(S)/ACCUSED:

- 1. ABHILASH, AGED 39 YEARS,
S/O.GANESH, PALLTHU VEEDU, ARANGATTUKARA,
THRISSUR, NOW RESIDING AT PRASANNA VIHAR APARTMENT,
ZFLAT NO: 1007, MARAIN DRIVE, ERNAKULAM (ACCUSED NO 1)**
- 2. SAMEER HAMSA, AGED 36 YEARS,
S/O.HAMSA, MAMBARTH HOUSE, THAIKAVUKARA,
VENGIDNGE VILLAGE, CHAVAKKADU, THRISSUR,
NOW RESIDING AT SWAPNA ENCLAVE, FLAT NO 9A, MARINE DRIVE,
ERNAKULAM (ACCUSED NO 2).**

BY ADV. SRI.R.ROHITH

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. THARIQUE, AGED 30 YEARS,
S/O.AKBAR, BYELINE 3, 34/2483,
BTS ROAD, EDAPALLY, ERNAKULAM - 682 024.**
- 3. ASIM MUHAMMED, AGED 28 YEARS,
S/O.AKBAR, BYELINE 3, 34/2483,
BTS ROAD, EDAPPALLY, ERNAKULAM - 682 024.**

**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. 4654 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1:-A TRUE COPY OF FIR DTD 27/5/2012 REGISTERED BY KALAMASSERY
POLICE IN CR. NO. 981/2012.**

**ANNEXURE A2:-A TRUE COPY OF THE CHARGE SHEET DTD 28/5/2012 PENDING
BEFORE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT,
KALAMASSERY IN CC NO 364/15.**

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

ANNEXURE A4:-A TRUE COPY OF THE AFFIDAVIT FILED BY THE 3RD RESPONDENT.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

=====

Crl.M.C.No.4654 of 2015

=====

Dated this the 23rd day of August, 2015

O R D E R

The petitioners herein are accused Nos.1 and 2 in the impugned Anx.A1 FIR in Crime No.981/2012 of Kalamassery Police Station, registered for offences punishable under Secs.323, 506(i) read with Sec.34 of the I.P.C., which has led to the institution of C.C.No.364/2015 on the file of the Judicial First Class Magistrate's Court, Kalamassery, at the instance of the 2nd respondent defacto complainant. It is stated that now the entire disputes between the petitioners on the one hand and respondents 2 and 3 on the other have been settled amicably and that respondents 2 and 3 have filed Anx.A-3 and A-4 affidavits respectively, wherein it is stated that they have settled the entire disputes with the petitioners and that they have 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.A1 FIR in Crime No.981/2012 of Kalamassery Police Station, which has led to the institution of C.C.No.364/2015 on the file of the Judicial First Class Magistrate's Court, Kalamassery, and all further proceedings arising therefrom pending against the petitioners stand quashed.

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

sd/-
ALEXANDER THOMAS, JUDGE

sdk+
///True copy///

P.S. to Judge