

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

Crl.MC.No. 4700 of 2015 ()

CC.NO. 183/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, TRIPUNITHURA
CRIME NO. 1752/2009 OF HILL PALACE POLICE STATION, ERNAKULAM

PETITIONERS/ACCUSED NOS.1 TO 3 :

- 1. DHARMAN**
AGED 64 YEARS, S/O.NARAYANAN,
THOTTUNGAL HOUSE, KUNNARA
EROOR P.O., ERNAKULAM.
- 2. GIRIGA**
AGED 54 YEARS, W/O.DHARMAN,
THOTTUNGAL HOUSE, KUNNARA
EROOR P.O., ERNAKULAM.
- 3. DHANESH**
AGED 33 YEARS, S/O.DHARMAN,
THOTTUNGAL HOUSE, KUNNARA
EROOR P.O., ERNAKULAM.

BY ADVS.SRI.GEO PAUL
SRI.SANU MATHEW
SRI.RADHIKA RAJASEKHARAN P.
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SRI.LENIN P. SUKUMARAN
SRI.JERRY VARGHESE

RESPONDENTS/DEFACTO COMPLAINANTS & STATE :

- 1. BIJU, AGED 37 YEARS**
S/O.VARGHESE, VENATTU HOUSE, KUNNARA
EROOR P.O., ERNAKULAM, PIN - 682 303.
- 2. MARY,**
AGED 63 YEARS, W/O.VARGHESE,
VENATTU HOUSE, KUNNARA
EROOR P.O., ERNAKULAM, PIN - 682 303.

3. STATE OF KERALA

**REPRESENTED BY SUB INSPECTOR
HILL PALACE POLICE STATION, ERNAKULAM
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, PIN - 682 031.**

**R1 & 2 BY ADV. SRI.SHERRY J. THOMAS
R3 BY PUBLIC PROSECUTOR SRI. R. GITHESH**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...3/-

Crl.MC.No. 4700 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A1- CERTIFIED COPY OF THE CHARGE SHEET IN C.C.NO.183/2014
 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
 THRIPIUNITHURA.**

ANNEXURE A2- AFFIDAVIT FILED BY THE 1ST RESPONDENT.

ANNEXURE A3- AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No.4700 of 2015

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Dated this the 28th day of July, 2015

ORDER

The petitioners is the accused in the impugned Anx.A1 final report/charge sheet filed in Crime No.1752/2009 of Hill Palace Police Station, Ernakulam district, registered of offences punishable under Secs.447, 341, 326 r/w 34 of the IPC, which has led to the institution of Calender Case, C.C.No.183/2014 on the file of the Judicial First Class Magistrate Court, Thripunithura. It is stated that now the entire disputes between the petitioners and the respondents/de facto complainant No.1 and 2 have been settled amicably and that the respondents have sworn to Anx.A2 to A3 affidavit before this Court, 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. 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 him.

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, it is ordered in the interest of justice that the impugned *Anx.A1* final report/charge sheet filed in Crime No.1752/2009 of Hill Palace Police Station, which has led to the institution of the Calender Case, C.C.No.183/2014 on the file of

Judicial First Class Magistrate Court, Thripunithura and all further proceedings arising therefrom pending against the petitioners stand quashed.

The Crl.M.C. is disposed of as above.

Sd/-
ALEXANDER THOMAS, JUDGE

AVS