

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

CrI.MC.No. 4747 of 2015 ()

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IN CC 562/2012 of J.M.F.C.,KUNNAMANGALAM
CRIME NO. 101/2012 OF MAVOOR POLICE STATION , KOZHIKODE
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PETITIONER(S)/ACCUSED:

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- 1. UNICHARU, AGED 68 YEARS
S/O.KANNANKUTTY, THOTTATHIL HOUSE, CHEROOPA (PO)
KOZHIKODE, PIN-673 661.**
 - 2. VELAYUDHAN
AGED 63 YEARS, S/O.KANNANKUTTY, THOTTATHIL HOUSE
CHEROOPA (PO), KOZHIKODE, PIN-673 661.**
 - 3. BABURAJ
AGED 44 YEARS, S/O.UNICHARU, THOTTATHIL HOUSE
CHEROOPA (PO), KOZHIKODE, PIN-673 661.**
 - 4. BAIJU
AGED 43 YEARS, S/O.VELAYUDHAN, THOTTATHIL HOUSE
CHEROOPA (PO), KOZHIKODE, PIN-673 661.**

**BY ADVS.SRI.P.V.KUNHIKRISHNAN
SRI.P.V.ANOOP**

RESPONDENT(S)/COMPLAINANT, VICTIM & STATE :

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- 1. CHEKKU
AGED 70 YEARS, S/O.KANNANKUTTY, THAOTTATHIL HOUSE
CHEROOPPA (PO), KOZHIKODE, PIN-673 661**
 - 2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**

**R1 BY ADV. SRI.G.ANEESH
R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
29-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4747 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNX.A - CERTIFIED COY OF THE FINAL REPORT IN C.C.NO.562/2012 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KUNNAMANGALAM WHICH AROSE FROM CRIME NO.101/2012 OF MAVOOR POLICE STATION, KOZHIKODE.**
- ANNX.B - CERTIFIED COPY OF THE CHARGE FRAMED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KUNNAMANGALAM DATED 13.02.2013 IN CC.NO.562/2012.**
- ANNX.C - TRUE COPY OF THE AFFIDAVIT FILED BY THE FIRST RESPONDENT DT.25.07.2015**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

ALEXANDER THOMAS, J.

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Crl.M.C.No.4757 of 2015

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Dated this the 29th day of July, 2015

ORDER

The petitioners seek orders to quash the F.I.R and further proceedings in Crime No.101/2012 of Mavoor Police Station, registered under Sections 447, 323, 324, 427 read with 34 of Indian Penal Code. 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 1st 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.

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.101/2012 of Mavoor Police Station, including all further proceedings arising out of C.C.No.562/2012 on the file of the Judicial First Class Magistrate Court, Kunnamangalam, 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.

ALEXANDER THOMAS
JUDGE

Crl.M.C.No.4757 of 2015

3

VS