

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

Cri.MC.No. 4805 of 2015 ()

CRIME NO. 690/2014 OF KASARAGOD POLICE STATION , KASARGOD

PETITIONERS/ACCUSED NOS. 1 & 2:

- 1. MUHAMMED RAFEEQUE, AGED 28 YEARS,
S/O. ABDULLA, MARA HOUSE, CHENGALA P.O,
CHENGALA VILLAGE, KASARAGOD DISTRICT.**
- 2. ABDUL RASHEED A.C., AGED 23 YEARS,
S/O. IBRAHIM V, ERAMALAM HOUSE,
ALAMPAFY P.O, MUTTATHODY VILLAGE,
KASARAGOD DISTRICT.**

BY ADV. SRI.I.V.PRAMOD

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1.STATE REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHI 682031.**
- 2.DR. VIKRAM IRNIRAYA, AGED 42 YEARS,
S/O. DR.BALAKRISHNA IRNIRAYA, SEA VIEW , NH ROAD,
MANGALPADI VILLAGE, UPPALA, MANJESWARAM,
KASARAGOD DISTRICT – 671 323.**
- 3.SHARMILA, AGED 29 YEARS,
D/O.LATE NARAYANA, AHLYA NILAYA, PARAKATTA,
RAMDAS NAGAR P.O, KUNDLU VILLAGE,
KASARAGOD DISTRICT – 671 323.**
- 4.NISHA, AGED 29 YEARS
VETTIKKAL HOUSE, VELLARIKUNDU HOUSE, PARAPPA,
VELLARIKUNDU TALUK
PARAPPA P.O., KASARAGOD DISTRICT – 671 323.**

**R2-R4 BY ADV. SRI.S.U.NAZAR
R BY PUBLIC PROSECUTOR SMT.SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURE:

- ANNEXURE A1:** CERTIFIED COPY OF THE FIR IN CRIME NO. 690/2014 DATED 08/08/2014 OF KASARAGOD POLICE STATION.
- ANNEXURE A2:** THE FIRST INFORMATION STATEMENT OF THE 2ND RESPONDENT DATED 08/08/2014.
- ANNEXURE A3:** THE AFFIDAVIT DATED 21.4.2015 SWORN BY THE 2ND RESPONDENT.
- ANNEXURE A4:** THE AFFIDAVIT DATED 21.4.2015 SWORN BY THE 3RD RESPONDENT.
- ANNEXURE A5:** THE AFFIDAVIT DATED 21.4.2015 SWORN BY THE 4TH RESPONDENT.
- ANNEXURE A6:** A TRUE COPY OF THE FINAL REPORT CRIME NO. 690/2014 OF KASARAGOD POLICE STATION DATED 27/1/2015.

RESPONDENT(S)' ANNEXURE:

NIL

TRUE COPY

P.A. TO JUDGE

AK

P.UBAID, J.

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Crl.M.C.No.4805 of 2015

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Dated this the 16th day of October, 2015

ORDER

The petitioners herein are the two accused in C.P.No.172 of 2015 of the Judicial First Class Magistrate Court-I, Kasaragod. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 448, 341, 323, 354(A)(1), 308 and 506(ii) read with Section 34 of the Indian Penal Code on the complaint of one Dr.Vikram Irniraya, who 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 now. The other persons who sustained injuries in the alleged incident are the respondents 3 and 4 in this proceeding. They have also filed affidavit to the effect that

they have settled the whole dispute with the accused, and they have no grievance or complaint now.

2. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution in pending proceedings, if the parties have really settled the whole dispute amicably out of court, and continuance of the prosecution will not serve any purpose in such a circumstance of amicable settlement. Here, I find a real and genuine case of settlement between the parties. This is not a case involving any public interest or public issue. The parties have come to terms amicably on the intervention of persons acceptable to both sides, and I am satisfied that the parties are now on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

3. On a perusal of the materials, I find that Section 308 IPC was incorporated in the proceeding by the police on the basis of a purely hypothetical statement. As regards the trespass and assault committed at the hospital, the complainant and other persons including the hospital authorities have come

to terms with the accused. They do not want to proceed with the prosecution further.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.P.No.172 of 2015 of the Judicial First Class Magistrate Court-I, Kasaragod will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution and the bail bond, if any, executed by them will stand discharged.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE