

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

Crl.MC.No. 4809 of 2015

CC 555/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDRUG.
CRIME NO. 1118/2014 OF HOSDURG POLICE STATION, KASARAGOD.

PETITIONER/ACCUSED:

NISHAD @ MUHAMMED NISHAD NISSAM,
AGED 25 YEARS, S/O.NISSAM, BENGACHERI,
NORTH CHITHARI, CHITHARI VILLAGE,
KASARAGOD TALUK.

BY ADV. SRI.A.ARUNKUMAR

RESPONDENT(S)/COMPLAINANT/STATE:

- 1. STATE OF KERALA,**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682031.
- 2. KUNHAMU.M.K, AGED 52 YEARS,**
S/O.MUHAMMED, RESIDING AT ADUKKATH HOUSE,
C.B.ROAD, NORTH CHITHARI, CHITHARI VILLAGE,
HOSDURG, KASARAGOD DISTRICT - 671 121.
- 3. SUHARA C.M, AGED 32 YEARS, W/O.KUNHAMU M.K,**
AGED 52 YEARS, RESIDING AT ADUKKATH HOUSE,
C.B.ROAD, NORTH CHITHARI, CHITHARI VILLAGE,
HOSDURG, KASARAGOD DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN
R2 & R3 BY ADV. SRI.P.K.SUBHASH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE AI-** **A TRUE COPY OF THE F.I.R IN CRIME NO.1118 OF 2014 OF
HOSDURG POLICE STATION.**
- ANNEXURE AII-** **A TRUE COPY OF THE FINAL REPORT IN CRIME NO.1118 OF
2014 OF HOSDURG POLICE STATION.**
- ANNEXURE AIII-** **A TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE
2ND RESPONDENT ENDORSING THE FACTUM OF
SETTLEMENT.**
- ANNEXURE AIV-** **A TRUE COPY OF HTE AFFIDAVIT SWORN TO BY THE
3RD RESPONDENT ENDORSING THE FACTUM OF
SETTLEMENT.**

RESPONDENTS' ANNEXURES: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No. 4809 of 2015

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Dated this the 30th day of July, 2015

O R D E R

The petitioner herein is the accused in the impugned Anx.A-II final report/charge sheet filed in Anx.A-1 FIR in Crime No.1118/2014 of Hosdurg Police Station, registered for offences punishable under Sec.435 of the I.P.C., at the instance of the 2nd respondent defacto complainant, which has led to the institution of Calendar Case, C.C.No.555/2015 on the file of the Judicial First Class Magistrate's Court-I, Hosdurg. It is stated that now the entire disputes between the petitioner on the one hand and respondent 2 and 3 on the other have been settled amicably and that the respondents 2 and 3 have sworn to Anx. A-III and A-IV affidavits before this Court, wherein it is stated that they have settled the entire disputes with the petitioner herein and that they have no objection for quashment of the impugned criminal proceedings pending against the petitioner. It is in the light of these aspects that the petitioner has 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 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-II final report/charge sheet filed in Anx.A-1 FIR in Crime No.1118/2014 of Hosdurg Police Station, which has led to the institution of Calendar Case, C.C.No.555/2015 on the file of the Judicial First Class Magistrate's Court-I, Hosdurg, and all further proceedings arising therefrom pending against the petitioner herein stand quashed.

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

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Sd/-
ALEXANDER THOMAS, JUDGE

///True copy///

P.S. to Judge